# BLUE LAWS

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July 10, 1924.

THE

# BLUE LAWS OF CONNECTICUT:

A COLLECTION OF THE

EARLIEST STATUTES AND JUDICIAL PROCEEDINGS OF THAT COLONY;

BEING

AN EXHIBITION OF THE RIGOROUS MORALS AND LEGISLATION OF THE PURITANS.

EDITED,

WITH AN INTRODUCTION,

BY

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AUTHOR OF "HISTORY OF THE FOUR GEORGES, KINGS OF ENGLAND," "LIFE, SPEECHES, AND MEMORIALS OF DANIEL WEBSTER," ETC.

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# PREFACE.

THE term "Blue Laws" is an epithet which has long been applied by way of derision to those rigorous judicial regulations and proceedings which form a part of the early history of the colony of Connecticut; and which illustrate, in rather a peculiar and forcible manner, the primitive morals and legislation of the Puritans. These laws exceed, in the minuteness of their details and in the severity of their penalties, the enactments which were adopted by the rest of the American Colonies; nor are they equaled in these respects by the statutes and judicial decisions of any other community with which we are acquainted. Hence it is that they enjoy a kind of pre-eminence in regard to quaintness, bluntness, particularity, and antiquated excess of penalty, which has gained for them the equivocal epithet by which they have been generally designated for several generations.



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The copy of these laws herewith presented, was originally taken from the public records which are preserved in the office of the Secretary of the State of Connecticut. The judicial proceedings which form a portion of the volume were also transcribed from the manuscript records of the court to which they appertain. The first edition of the work having long been out of print, a new impression was deemed desirable to meet the frequent calls which were made for it. The antique and obsolete orthography of this remarkable relic of the colonial era of our country has been carefully retained, as forming an essential element of its singularity and value.

S. M. S.

PHILADELPHIA, *October* 1860.

# INTRODUCTION.

MEMORIALS of former ages possess an attraction for the majority of readers; but monuments of the peculiar qualities of that stern and vigorous race of men, who have stamped the impress of their genius on society, literature, and government in almost every quarter of the civilized world, during several centuries, are invested with a superior and more absorbing interest. The Puritans and their peculiarities of manner, speech, attire, and belief have often been the subject of ridicule to the driveler, of abhorrence to the sensualist, of condemnation to the bigot; nevertheless, they have constituted one of the chief motive-powers which has urged on the car of human progress; they have proved to be the most potent bulwarks in defense of liberty; they have formed one of the chief sanctuaries in which virtue, love of truth, hatred to tyrants, and the best interests of mankind, have been protected and enshrined. Wherever the Anglo-Saxon race exists, moulding the laws, religion, and social condition of communities and nations, there the traditions of the quaint peculiarities and austere virtues of the Puritans will be found, as-

serting their power as *facile principes* among the controlling influences which give character to the institutions around them. Hence it is, that the singular collection of judicial enactments and decisions familiarly known as the "Blue Laws of Connecticut," possess a serious importance, and not merely, as is sometimes erroneously supposed, a risible and comical interest.

We purpose, in this Introduction, to trace briefly the origin and development of those several communities in Connecticut who framed and administered these Laws; and to narrate the leading circumstances and events which attended their history, until the period when these regulation were adopted by them and were incorporated into their civil and ecclesiastical government.

### I. ORIGIN OF THE COLONY OF CONNECTICUT.

On the 20th of March, 1630, about ten years after the landing of the pilgrim fathers on Plymouth Rock, a number of persons who professed the same religious opinions sailed from Plymouth, England; and after a voyage of two months arrived off Nantasket Point. They proceeded up Charles river, and having landed, commenced the erection of dwellings, at a place subsequently called Dorchester. These emigrants were under the guidance of the Rev. John Warham, who had been a distinguished Puritan minister in Devonshire, England. In 1632 a second emigration took place under the conduct of the Rev. Thomas

Hooker, who settled at Newtown. A third community was also established at Watertown, under the general direction of the Rev. Mr. Phillips. These three communities were situated within the limits of the old colony of Massachusetts.

In 1634 the accession of numbers from the mother country to the Puritan colonies of the New World, in consequence of the ecclesiastical tyranny which prevailed in England, became so great, that the settlers we have just named conceived the idea, that their interests would be promoted by a removal from Massachusetts to a still newer and less populous location; and various reports having been circulated in reference to the fertility and salubrity of the region known by the name Connecticut, a number of persons resolved to remove thither, and there establish a new colony. They petitioned the Court of the elder colony for permission to withdraw; and after considerable opposition their request was granted. It was in the year 1635 that their resolution was carried into effect. First a number of persons from Watertown, plunging into the primeval wilderness of forest which divided the inhabited portions of Massachusetts from the surrounding territory, traveled toward the Connecticut river; and at length halted, erected a few huts, and commenced a settlement at Weatherfield. Other companies from Newtown and Dorchester followed, and by them the villages of Hartford and Windsor were subsequently commenced. Thus were laid the foundations of the colony of Con-

necticut, by persons who had fled, in the first instance from ecclesiastical tyranny in England, in order that, amid the wilds and solitudes of a new world, they might enjoy the priceless boon of religious liberty. Prominent among these fathers of Connecticut were Messrs. Warham, Hooker, Ludlow Wolcott, and Hopkins, all of whom were either the ministers or magistrates of the three first settlements. These men and their associates deserve the praise of having nurtured and moulded one of the most prosperous and virtuous communities which probably ever existed; and which, till this day, maintains a marked preeminence among men for all those qualities which indicate social, moral, and political excellence.

In the year 1636 the three towns of Hartford, Weatherfield, and Windsor contained about eight hundred persons; including the garrison of the fort, which had been erected at the mouth of the Connecticut river, commanded by Lieutenant Gardiner, as a protection against the occasional aggressions of the Dutch, in the neighboring colony of New Amsterdam.

These colonists settled under the auspices of a charter which had been executed in 1631, by Robert, Earl of Warwick, president of the Council of Plymouth, to William, Viscount Say and Seal, Robert Lord Brooks, Lord Rich and others, their heirs and assigns forever; which charter conveyed to them the fee simple of all that portion of New England, which extended from the Narragansett

river, for the space of forty leagues along the sea shore, toward the west and southwest as far as the confines of Virginia. The title held by the Earl of Warwick had been derived from the Council of Plymouth in England; and it had been confirmed to him by a royal patent from Charles I. Whatever right and title therefore they possessed in the immense territories included in this patent, they transferred in full force and vigor to the said patentee.

### II. EARLY HISTORY OF THE THREE COLONIES.

During the first years of their residence in Connecticut the colonists endured extreme privations. They were sometimes assailed by the hostile Indians, who viewed the encroachments of the strangers into their own hereditary domains with astonishment, and a not unreasonable jealousy. The most numerous and powerful of these belonged to the tribe of Pequots. A number of murders were committed by them from time to time, and the colonists lived in constant and imminent peril. An appeal for aid was at length made to the parent colony of Massachusetts; in answer to which an expedition numbering ninety men, was sent forth under Captain Endicott, to avenge the outrages committed and punish the offenders. Nothing of moment was effected by this force, except still more deeply to exasperate the savages. Various acts of hostility ensued between the two races. Famine and disease began

to afflict the colonists. The war was afterward resumed by the colony of Massachusetts in consequence of these events, and carried on with greater vigor; inasmuch as the very existence of the settlements made in Connecticut seemed to depend upon the energy of their co-operation and assistance. An Indian village was burned and six hundred persons perished in the flames, and by the fire of their assailants. The savages were eventually conquered, and a treaty was concluded between them and the colonists, by which the former agreed to maintain amicable relations with them, to abandon their native territory, to change their name from Pequot to Narragansett, to pay an annual tribute to the English; and it was agreed that all disputes between the several neighboring tribes should be referred for settlement to the magistrates of the colony,

In the year 1638 the town of New Haven was founded by emigrants from London, under the guidance of the Rev. John Davenport. He and his associates sailed in the first instance for Boston. After arriving in the colony of Massachusetts, they determined to establish a distinct and independent community; although persevering efforts were made to retain them at Boston, in consequence of the very considerable wealth which the chief men of the company possessed. But they could not be diverted from their resolution; and Mr. Davenport, accompanied by several leading men, proceeded to visit the region in which New

Haven now stands. In December, 1638, he and his associates purchased a tract of land from the Indians, who still occupied that territory; and entered into a treaty of perpetual friendship with them. The foundations of the colony was then laid under favorable auspices, chiefly in consequence of the superior amount of wealth possessed by the settlers, and expended by them in the undertaking.

In January, 1639, the three original colonies of Windsor, Hartford, and Weatherfield, assembled at Hartford, for the purpose of adopting a constitution and government. This was an important event in giving consistency and unity to the entire community. The constitution which they framed will be found reprinted in Part I. of the following work. Its various provisions in regard to the election of officers; the number and powers of their representatives; the reservation of certain important franchises and functions in the hands of the people; the independence of the action of their magistrates; the jealousy with which their liberties were guarded; the equitable manner with which taxes were to be imposed upon the citizens; and the rigor with which penalties for offenses were to be inflicted;—in all these we see the germs of those great principles of civil and religious liberty for which their authors had endured so much, and of which they possessed so clear and so discriminating a conception.

In accordance with the provisions of this consti-

tution, the freemen of the three towns convened in Hartford in April, 1639, and elected the first officers under the new consolidated arrangement. John Haynes was appointed governor, six eminent citizens were chosen magistrates. Roger Ludlow, the first of the six, was made deputy-governor. Representatives were selected to sit in the first General Assembly which was convened; and a number of laws were adopted for the government of the three communities. All these laws were remarkable for the jealousy and care with which the personal rights of the citizens or colonists were preserved. They enacted that no man's life should be taken away, or his reputation injured, or his person arrested, or his property damaged, or his family disturbed, except it should be by virtue of an express law of the colony, commanding and warranting it; or in case the law as it then stood should be deficient in reaching the matter, some plain and clear rule of the Scriptures, in the meaning of which all the magistrates concurred, should be made the standard by which the case was to decided.

### III. FIRST CONSTITUTION OF THE COLONY OF NEW HAVEN.

The colony of New Haven which had been established under the auspices, and had flourished thus far under the superintendence, of the Rev. Mr. Davenport, remained a year without any settled civil or religious constitution, except that involved in a brief and summary "Plantation-Cove-

nant." Fresh accessions to their numbers arrived from time to time from England; and it became desirable that the whole community should be placed under the control of a uniform and beneficent code of civil and religious enactments. Accordingly on the 4th of June, 1639, all the "free planters" convened in a large barn, and these proceeded in a solemn manner to adopt a constitution for their mutual government. The proceedings were opened by a sermon from Mr. Davenport, who preached from these words: "Wisdom hath builded her house, she hath hewn out her seven pillars."

After the conclusion of the religious services Mr. Davenport introduced the special subject of their meeting; and proceeded to propound a series of questions for their discussion. The answers to these questions, which were eventually adopted by the assembly, form the constitution by which they resolved that they would thenceforth be governed. As this instrument was one of great interest, and is in itself not inferior in importance to those contained in the succeeding portions of this volume, we will here present it entire:

"*Query* I. Whether the scriptures do hold forth a perfect rule for the direction and government of all men in all duties which they are to perform to God and men, as well in families and commonwealth, as in matters of the church? This was assented unto by all, no man dissenting, as was expressed by holding up of the hands. Afterwards

it was read over to them, that they might see in what words their vote was expressed. They again expressed their consent by holding up their hands, no man dissenting.

"*Query* II. Whereas, there was a covenant solemnly made by the whole assembly of free planters of this plantation, the first day of extraordinary humiliation, which we had after we came together, that as in matters that concern the gathering and ordering of a church, so likewise in all public officers which concern civil order, as choice of magistrates and officers, making and repealing laws, dividing allotments of inheritance, and all things of like nature, we would all of us be ordered by those rules which the scripture holds forth to us; this covenant was called a plantation covenant, to distinguish it from a church covenant, which could not at that time be made, a church not being then gathered, but was deferred till a church might be gathered, according to God: It was demanded whether all the free planters do hold themselves bound by that covenant, in all businesses of that nature which are expressed in the covenant, to submit themselves to be ordered by the rules held forth in the scripture?

"This also was assented unto by all, and no man gainsayed it; and they did testify the same by holding up their hands, both when it was first propounded, and confirmed the same by holding up their hands when it was read unto them in public. John Clark being absent, when the cove-

nant was made, doth now manifest his consent to it. Also, Richard Beach, Andrew Law, Goodman Banister, Arthur Halbridge, John Potter, Robert Hill, John Brocket, and John Johnson, these persons, being not admitted planters when the covenant was made, do now express their consent to it.

"*Query* III. Those who have desired to be received as free planters, and are settled in the plantation, with a purpose, resolution and desire, that they may be admitted into church fellowship, according to Christ, as soon as God shall fit them thereunto, were desired to express it by holding up hands. Accordingly all did express this to be their desire and purpose by holding up their hands twice, (viz.) at the proposal of it, and after when these written words were read unto them.

"*Query* IV. All the free planters were called upon to express, whether they held themselves bound to establish such civil order as might best conduce to the securing of the purity and peace of the ordinance to themselves and their posterity according to God? In answer hereunto they expressed by holding up their hands twice as before, that they held themselves bound to establish such civil order as might best conduce to the ends aforesaid.

"Then Mr. Davenport declared unto them, by the scripture, what kind of persons might best be trusted with matters of government; and by sundry arguments from scripture proved that such

men as were described in Exod. xviii. 2, Deut. i. 13, with Deut. xvii. 15, and 1 Cor. vi. 1, 6, 7, ought to be intrusted by them, seeing they were free to cast themselves into that mould and form of commonwealth which appeared best for them in reference to the securing the peace and peaceable improvement of all Christ his ordinances in the church according to God, whereunto they have bound themselves, as hath been acknowledged.

"Having thus said he sat down, praying the company freely to consider, whether they would have it voted at this time or not. After some space of silence, Mr. Theophilus Eaton answered, it might be voted, and some others also spake to the same purpose, none at all opposing it. Then it was propounded to vote.

"*Query* V. Whether free burgesses shall be chosen out of the church members, they that are in the foundation work of the church being actually free burgesses, and to choose to themselves out of the like estate of church fellowship, and the power of choosing magistrates and officers from among themselves, and the power of making and repealing laws, according to the word, and the dividing of inheritances, and deciding of differences that may arise, and all the businesses of like nature are to be transacted by those free burgesses? This was put to vote and agreed unto by lifting up of hands twice, as in the former it was done. Then one man stood up and expressed his dissenting from the rest in part; yet granting, 1. That

magistrates should be men fearing God. 2. That the church is the company where, ordinarily, such men may be expected. 3. That they that choose them ought to be men fearing God: only at this he stuck, that free planters ought not to give this power out of their hands. Another stood up and answered, that nothing was done, but with their consent. The former answered, that all the free planters ought to resume this power into their own hands again, if things were not orderly carried. Mr. Theophilus Eaton answered, that in all places they choose committees in like manner. The companies in London choose their liveries by whom the public magistrates are chosen. In this the rest are not wronged, because they expect, in time to be of the livery themselves, and to have the same power. Some others entreated the former to give his arguments and reasons whereupon he dissented. He refused to do it, and said, they might not rationally demand it, seeing he let the vote pass on freely and did not speak till after it was past, because he would not hinder what they agreed upon. Then Mr. Davenport, after a short relation of some former passages between them two about this question, prayed the company that nothing might be concluded by them on this weighty question, but what themselves were persuaded to be agreeing with the mind of God, and they had heard what had been said since the voting; he entreated them again to consider of it, and put it again to vote as before. Again all of

them, by holding up their hands, did show their consent as before. And some of them confessed that, whereas they did waver before they came to the assembly, they were now fully convinced, that it is the mind of God. One of them said that in the morning before he came, reading Deut. xvii. 15, he was convinced at home. Another said, that he came doubting to the assembly, but he blessed God, by what had been said, he was now fully satisfied, that the choice of burgesses out of church members, and to instruct those with the power before spoken of, is according to the mind of God revealed in the scriptures. All having spoken their apprehensions, it was agreed upon, and Mr. Robert Newman was desired to write it as an order whereunto every one that hereafter should be admitted here as planters, should submit, and testify the same by subscribing their names to the order: Namely, that church members only shall be free burgesses, and that they only shall choose magistrates and officers among themselves, to have power of transacting all the public civil affairs of this plantation; of making and repealing laws, dividing of inheritances, deciding of differences that may arise, and doing all things and businesses of like nature.

"This being thus settled, as a fundamental agreement concerning civil government, Mr. Davenport proceeded to propound something to consideration about the gathering of a church, and to prevent the blemishing of the first beginnings of the church

work, Mr. Davenport advised, that the names of such as were to be admitted might be publicly propounded, to the end that they who were most approved might be chosen; for the town being cast into several private meetings, wherein they that lived nearest together gave their accounts one to another of God's gracious work upon them, and prayed together and conferred to their mutual edification, sundry of them had knowledge one of another; and in every meeting some one was more approved of all than any other; for this reason, and to prevent scandals, the whole company was entreated to consider whom they found fittest to nominate for this work.

"*Query* VI. Whether are you all willing and do agree in this, that twelve men be chosen, that their fitness for the foundation work may be tried; however, there may be more named, yet it may be in their power who are chosen, to reduce them to twelve, and that it be in the power of those twelve to choose out of themselves seven, that shall be most approved of by the major part, to begin the church?

"This was agreed upon by consent of all, as was expressed by holding up of hands, and that so many as should be thought fit for the foundation work of the church, shall be propounded by the plantation, and written down and pass without exception, unless they had given public scandal or offence. Yet so as in case of public scandal or offence, every one should have liberty to propound

their exception, at that time, publicly against any man, that should be nominated, when all their names should be writ down. But if the offence were private, that men's names might be tendered, so many as were offended were intreated to deal with the offender privately, and if he gave not satisfaction, to bring the matter to the twelve, that they might consider of it impartially and in the fear of God."

It was further decreed that all persons who wished to become "free planters" or members of the association, should subscribe to the preceding articles. Accordingly on the 22d of August, 1639, more than a hundred individuals complied with this requisition, and by them seven leading men were afterward chosen as the rulers of the colony, and as the heads of the church. At that time it was ordered, that all former regulations for the government of the public affairs of the plantation which existed should be abrogated; and that thenceforth the new rules and provisions should alone be authoritative and supreme. Thus the ecclesiastical and civil affairs of the colony of New Haven, its church and state were incorporated into one; it became, in fact, a diminutive theocracy, in which the secular interests of the community were governed entirely by laws which were professedly drawn from the principles taught, and, as far as circumstances permitted, from the examples given, in the Scriptures. Theophilus Eaton was chosen the first governor; Rev. John Davenport remained the pastor

and spiritual guide; and the chief authority was possessed, for the time being, by these, and their five associates in the magistracy. The officers were chosen annually, at a general meeting of the free planters, that is, members of the church, which convened at New Haven in October. In all things the Scriptures were made the standard of civil and religious, of secular and ecclesiastical law; all authority was placed in the members of the church; and they elected to office those who were delegated to administer the affairs of the colony.

IV. PROGRESS AND GROWTH OF THE CONNECTICUT COLONIES.

Notwithstanding the fact that the colonists of Connecticut derived their title to their lands by purchase from the English patentees, they exhibited a commendable degree of honesty, by effecting a second purchase of the same territories from the original Indian owners. Thus they fulfilled a law of equity which was not always observed by the various emigrants from the Old World, who settled in the different portions of the original colonies. At the same time, the people of Connecticut adopted laws for the protection of the Indians by whom they were still surrounded; and in many cases they were permitted to erect wigwams, and to reside on the very lands which had been purchased from them. They were also allowed to fish and hunt without restraint, throughout the whole territory which had thus become the property of the colonists by a double title.

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As time progressed, as the settlements increased, as new exigencies and relations sprang up, it became necessary to enact more minute laws for the government of those concerned; and thus that celebrated code at present stigmatized as the "Blue Laws," began to be framed, and gradually increased until their completion. The first of these, in the order of time, were those enacted on the 2d of April, 1642, and which were known as the "Capital laws" of Connecticut. They were twelve in number, and their purpose was to punish according to the penalties enacted in the Old Testament, those offenses which were forbidden by them. The texts of Scripture on which they were based were added to each law, as *dicta probantia*, showing the divine authority by which they were defended. These laws will be found in the succeeding pages, and they are a singular specimen of jurisprudence. Thus they enact, *inter alia*, that if a man or woman be a witch, or hath consulted with a familiar spirit, they shall be put to death, (Exod. xxii. 18. Levit. xx. 22.) If any man steal a man or mankind, *or selleth him*, or he be found in his hand, he shall be put to death. (Exod. xxi. 16.)

Other measures were gradually adopted to improve the condition of these colonies, to perfect their government, and to consolidate their power. Young colonies, such as those of Stamford and Guilford, which had more recently been founded, were received by their deputies at a General Court

held at New Haven in April, 1643, as member of the confederacy.

About the same time an important improvement was made in the judicial practice of the settlements, by the introduction of juries. Previous to this period the magistrates had possessed exclusive jurisdiction in the hearing of trials, and in imposing and executing penalties. But now, juries were appointed and minute regulations were adopted, for their guidance and direction. It was decreed that, the jury having attended diligently to the evidence given in the trial of causes, if they could not *all* agree in their verdict, they should give their reasons to the court, who should answer and explain the alleged difficulties, and send them out again. If after further deliberation, they could not then agree upon their verdict, it was ordered, that a majority of the jury should determine the issue; but if the jury should still be equally divided in adverse judgments, they should represent the case to the court, stating their several reasons at length, when a special verdict should be drawn up, by a vote of the majority of the magistrates or judges combined with the majority of the jurors. At this period, in 1643, a further improvement was made in the judicial machinery of the colonies by the introduction of grand-juries, whose functions, similar to those of grand-juries in the mother country, were till then unknown in Connecticut.

Another important event in the history of these colonies occurred in 1643. The perils which sur-

rounded them, from the hostile savages on one hand, and from the rival Dutch settlers in New Amsterdam on the other, induced the English colonists of New England at that period to enter into a general confederacy, for the purposes of mutual protection. The matter had been under consideration for some years; and various attempts had been made to consummate the desired union. On several occasions prominent members of the Connecticut colonies had visited Boston for the purpose of effecting some decisive result, but without success. At length common dangers by which they were surrounded, produced a greater spirit of willingness on the part of Massachusetts to co-operate in the work. Accordingly on the 19th of May 1643, while the general court of that colony was in session, commissioners were sent from Connecticut to renew the proposals for a defensive union. Governor Haynes from Hartford, Governor Eaton from New Haven, and five other leading members were chosen for this mission; and commissioners were appointed by the general court of Massachusetts to confer with them, and to deliberate upon articles of amity and co-operation. Their labors were successful, for they convened, not so much to debate and wrangle, as to act, and harmonize, and accomplish something. The accordingly adopted articles of confederation the main purport of which was as follows:

They declared, in their preamble, that all the colonists whom they represented had emigrated to

America for the same end,—to advance the kingdom of Jesus Christ and to enjoy the privileges of the gospel in purity and peace; that they conceived it to be their duty to enter into a compact for their mutual protection; that they were all of the same nation and religion, and hence desired to be and to remain united; and that therefore they would adopt the following articles under the name and designation of the "United Colonies of New England."

They declared further, therefore, that they and the persons whom they represented did thereby, jointly and severally, enter into a firm and perpetual league of friendship, both offensive and defensive, promising each other mutual aid and succor, upon all just occasions, both for preserving and propagating the gospel, and for their own mutual safety and benefit; that each colony reserved to itself the exclusive control of its own affairs; that no two colonies could be united into one, nor any other colony received into the confederacy, without the consent of the whole; that each colony should annually send two commissioners, both of whom should in all cases be church members to meet alternately at Boston, Hartford, New Haven, and Plymouth, for the purpose of deliberation and action, who were vested with plenary power to make war and peace, to adopt laws and regulations of a civil nature and general concern; and especially to have jurisdiction over affairs relating to the Indians, to the general defense of the country, and to the ad-

vancement of religion. The expense of the wars incurred by these means was to be borne by all in proportion to the number of male inhabitants of each between the ages of sixteen and sixty.

It was also provided, that upon notice being given by three magistrates of any of the confederated colonies, that an invasion was anticipated, the other colonies were to send immediate assistance, in the case of Massachusetts, a hundred men, and forty-five men from each of the other settlements. If a greater number was found to be necessary the commissioners were to assemble forthwith and determine the addition, and the proportion of it due from each colony. No colony could engage in hostilities without the consent of the whole confederation. The articles also enacted that all "servants" running from their masters, all criminals flying from justice, and escaping from one colony into another, should be delivered up upon a requisition being made: thus, perhaps, furnishing the original, after which the beneficent extradition usages of the present day, and prevalent throughout many communities, may have been modeled. The confederation thus adopted proved in succeeding times exceedingly beneficial to the colonies, and tended to their preservation and security amid the horrors which subsequently ensued on many occasions of critical and imminent peril; during the war with King Philip, the hostilities with the Dutch, and the insidious rivalries of the French. This confederation remained in bene-

ficent force during forty years, until James II. of England, by one of the most arbitrary and infamous acts of his despotism, abrogated the charters of the colonies of New England.*

### V. HISTORY OF THE CONNECTICUT COLONIES TILL THE ADOPTION OF THE BLUE LAWS.

The chief difficulties which surrounded these colonies at this period, resulted from the continued hostility of the Indians. These aborigines still inhabited the forests and roamed over the lands adjacent to the settlements of the English; and deeds of private vengeance were inflicted by them from time to time, which called for signal punishment. A rumor prevailed, that the savages had made a solemn threat to exterminate the colonies

* In 1643 a further improvement was introduced into the judicial government of the Connecticut colonies, by the adoption of a law, passed in a general convention of the free planters, all of them being church members in good standing, which created a Court of Appeals. This court consisted of all the magistrates of the colonies of Connecticut, who were required to meet twice a year at New Haven, on the Mondays preceding the general courts of April and October, to hear appeals from the several courts of the colonies, and to determine all causes, both civil and criminal, which were submitted by the appellants. Each magistrate was obliged to attend, under penalty of a heavy fine; the judgments of the court were to be determined by the voices of the majority; and their decisions were the last resort, and of the highest authority.

entirely, and sweep the strangers from the face of the territory into which they had intruded. In September, 1644, the commissioners from all the New England colonies convened at Hartford, under the new treaty; and the impending perils from the Indians became the subject of deliberation. They sent Thomas Stanton their interpreter, to the Narragansetts and Moheagans, for the purpose of inviting their sachems to meet the commissioners at Hartford, and adopting some terms of conciliation and amity. The savages complied, a "grand talk" was held between the representatives of the two races, a hollow peace was patched up between them, and further scenes of blood and violence for a time suspended. The Indians left several of their number with the English as hostages for the performance of their engagements; and a day was appointed by the colonies for fasting and thanksgiving at this apparently propitious event.

In the following year, (1645) trouble came from a different quarter. The Dutch colonists of New Amsterdam were actuated by a spirit of jealous rivalry toward their neighbors. Governor Kieft sent an insulting letter to Mr. Eaton, the governor of the colony of New Haven, charging him and his people with a desire to encroach upon the rights of the Dutch; that they had entered within the limits of New Netherlands; that they were the disturbers of the public peace; and he threatened that, unless reparation were made for the injuries inflicted on their property and trade, he

would proceed to acts of violence and retribution. To this communication Governor Eaton responded, that the colonists of New Haven had never entered on any lands to which the Dutch possessed the slightest claim; that the former though often aggrieved by the Dutch, had done nothing inconsistent with the law of nations, the law of God, or the ancient treaties which existed between England and Holland; and they were further willing to submit the questions in dispute to the decision of impartial umpires, either in Europe or America.

Meanwhile, the Dutch who had settled at Hartford maintained a separate and hostile attitude toward the English colonists at that place, and lived under an independent jurisdiction. Whenever opportunities occurred by which they could annoy and disturb their rivals, they eagerly embraced them. Thus it is narrated, that an Indian woman, of pleasing appearance, who had been engaged in service to one of the English, and who had been guilty of some act which rendered her amenable to a penalty under their rigorous laws, having fled to the Dutch, they refused to give her up; and although the English authorities demanded her, as a fugitive from justice, yet, the Dutch governor, "in the heighth of disorder," quoth the ancient chronicler, resisted the demand, drew his sword upon the applicant, and retained the woman, "for the purpose of wantonness."* A correspondence

* Records of the United Colonies.

afterward ensued between the commissioners of the colonies and Governor Kieft of New Amsterdam, in which much bitterness was exhibited on both sides, and which led to no results of any importance, save to increase the spirit of hostility between the rival colonies. These disputes furnished another evidence of the truth of the assertion, that "the natural state of mankind is war;" because these colonists quarreled with each other apparently from an inherent necessity of conflict, and impossibility of harmony; for all their interests, their commercial profits, and their protection against the Indians, who were their common foe, should have urged them to maintain constant friendship, co-operation and unity.

In 1648 several changes of importance were made in the regulations which governed the Connecticut colonies. Previous to this period, all the magistrates rendered their services without salary, being compensated by the honor conferred upon them. In this year the General Court decreed that thenceforth the governor should receive thirty pounds annually; and other sums were appropriated to other functionaries. Excessive rigor seems at this time to have characterized all the new regulations adopted by the magistrates. Thus the use of tobacco was at this period first prohibited; and it was enacted that whoever should use the weed without the certificate of a physician and the permission of the court, should be fined sixpence for

each offense. "And it was further ordered that the fines should be paid without gainsaying."*

At this period the colonies of Connecticut enjoyed repose, increased in numbers, and were undisturbed by attacks from the surrounding savages. Another colony was now founded at New London. Friendly relations were commenced with Peter Stuyvesant, who had recently been appointed governor of the Dutch colony, which led to mutual benefits. The commissioners of the New England colonies met regularly, and adjusted the affairs of their several constituents with wisdom and impartiality. It is recorded that in the year 1649, the whole expense incurred by the confederation was one thousand and forty-three pounds; of which sum a hundred and fifty-five pounds seventeen shillings and seven pence were due to Connecticut, as having been expended over and above their proportion, in the common defense.

We have now arrived at the period when the code of laws contained in the following pages, was framed and adopted. Until this date, the municipal regulations which governed the colonies of Connecticut were scattered among various depositaries. In the adjudication of many causes, and in the punishment of many offenses, the magistrates were allowed and compelled to exercise a wide discretion; and accordingly, a great diversity existed in regard to the punishments inflicted at different

* Records of Connecticut, vol. i., p. 170.

times by different magistrates for the same crimes. Thus, for instance, slander was punished by fine, scourging and imprisonment. In 1646, Robert Bartlett, for this offense was sentenced to stand in the pillory during the public lecture, to be whipped, to pay a fine of five pounds, and to suffer six months' imprisonment. Not long after, Daniel Turner, for the same crime, under equally aggravated circumstances, was whipped, imprisoned for one month, then whipped again, and then held to bail to hold his tongue. Unchastity was in some cases punished by setting in the pillory, and in others, by whipping from one town to another.

It was now resolved by the General Court whose jurisdiction extended over the Connecticut colonies, that a collection of all the laws which were then in force, should be made; and that they should be revised, digested, and incorporated into one code. Mr. Roger Ludlow, who had recently retired from the office of deputy governor of Hartford, and was then one of the magistrates of that colony, was appointed by the court to perform this duty. He was one of the most esteemed and influential of the colonists, and was well worthy of the important trust confided to him. He labored industriously upon his task and spent several years in accomplishing it. The result of his labors was the preparation of the celebrated code now known as the "Blue Laws," and which are contained in Part II. of the following work, under the title of the Code of 1650. They were presented by him

in this consolidated form to the General Court, and by them approved and adopted, as the law of the Connecticut colonies. Some changes were also made in the jurisdiction of the judges; in cases where a jury could not agree in the trial of a cause, they were authorized to impannel a new one; and when they thought that the jury had imposed excessive or insufficient damages, they were allowed to alter and amend the verdict according to their sense of justice.* These laws remained in operation until 1686, when Andros, who had been appointed Governor of New England by James II., repaired to Hartford, suspended the operation of the existing charter and laws, and ruled the colonies by statutes dictated by the authority of the British monarch.

We conclude this introduction with some observations on the character and qualities of the men who contrived, enforced, and obeyed these extraordinary enactments.

1. It is evident that the men who framed them were conversant with the principles of the common and statute law of England; that vast and stupendous monument of intellect and research, *leges scriptæ et non scriptæ*, which had been accumulating in the mother country during many previous ages of the national existence. The truth of this assertion will be evinced by a glance at the laws themselves; for the provisions there made

* Old Connecticut code, p. 170.

respecting Barratry, Attachments, Bills, Conveyances, Escheats, Caveats, and other matters, demonstrate that the authors were not unlearned in the law, but had tasted of the fountain whose waters were enriched with the affluent and precious contributions of Bracton, Littleton and Coke. The prudence with which they provided for the government of the towns within their jurisdiction, indicates that they were acquainted also with the principles of municipal law; comprising those rules of action, emanating from the supreme power in the state, which govern the conduct and protect the rights of men, when associated together as a community. Nor do they seem to have been ignorant or neglectful of the great principles of natural law; of those principles of abstract right and justice, which the Creator intended should have a controlling influence over human conduct, and which may be deduced by the impartial exercise of reason, from the structure of man's own nature, from the teachings of his experience, and from the phenomena of the universe around him.*

2. But whatever may have been the respect

* The Roman Jurists defined Natural Law in general to be *quod natura omnia animalia docuit.* Justin. Inst. Tit. II., § 1. They elsewhere define what they regarded as the fundamental principles or duties inculcated by it: *Juris præcepta sunt hæc; honeste vivere, alterum non lædere, suum cuique tribuere.* Ibid. Tit. I., § 3. These injunctions the Puritans of Connecticut rigidly obeyed.

paid by the framers of the Blue Laws to these sources of juridical knowledge, they were pious and conscientious men, who, in all cases accorded paramount deference, over every other source of authority, to what they believed to be the teachings of the Scriptures. In every instance in which a collision or rivalry existed between these standards of justice, the scriptures were appealed to as the *ultima ratio*, the *suprema lex*. They were the first "higher law" people who ever existed on this continent; and they frequently appended to their statutes, the passages of scripture from which their substance was derived, especially in extreme or doubtful cases. Of this class were those instances in which the penalty of death was imposed, to which reference has already been made.

Yet we would not by any means intimate that these Puritans were faultless, either in principle or in conduct. They seem in a few respects, indeed, to have been singularly destitute of a proper conception of the spirit and teaching of that very religion which they professed. They were guilty of some acts which cannot be justified. They sometimes beheaded prisoners taken in war; and having executed the Indian sachems whom they captured, they enslaved their women and children. They exhibited a censurable spirit by placing the heads of their slain enemies on polls, to be gazed at as monuments of their prowess and triumph. It is the more singular that they should have enslaved their Pequot captives, as there is a provision

among the Blue laws, forbidding the holding or selling of slaves.

3. These remarkable men were enthusiasts in their religion; and had made heavy sacrifices, in order to obtain the boon of religious liberty. They had endured the horrors of the primeval forest, perils from hostile and treacherous savages, cold, hunger, and almost every possible ill, to escape from the encroachments of ecclesiastical tyranny. They were the same class of men who overturned the ancient monarchy of Britain; the partisans of Cromwell, Hampden, Vane, and the rest of that stern and inflexible race, who became the founders of the once glorious and powerful commonwealth of England. They had many peculiarities which might readily provoke the laughter of their cotemporaries, and of posterity. The very names which they adopted, in their excessive sanctity, render them an object of amusement to this day, such as: *Stand-fast-on-high* Stringer, *Kill-Sin* Pimple, *More-fruit* Fowler, *Fight-the-good-fight-of-faith* White, *If-Christ-had-not-died-for-you-you-had-been-damned* Barebones, more commonly termed, for the sake of brevity, *Damned* Barebones. But in spite of these and other objectionable peculiarities they were well worthy of admiration; for enthusiasm, which is essential to success in every great and good enterprise, was their's in a pre-eminent degree; and conscientious integrity always deserves respect, though united with qualities which the sensualist and the for-

malist may deride. The early New England Puritans were in many important respects a model for after-ages; and even the extreme rigor which characterizes these Blue Laws, and which is the chief subject of ridicule in connection with them; what is it, but in one sense a just praise and honor to their authors? What legislature would *now* dare to adopt such regulations, and impose on their constituents a standard of morality so high? What community in *this* age, would obey such laws? In what land, or by what government could they be enforced? By none whatever. These Puritans, in that remote period of peril and uncertain struggle laid the broad and firm foundation of that religious and civil edifice, the superstructure of which others, in more propitious and enlightened times have so gorgeously built; but which could never have been erected unless they had performed their primal part, with such signal virtue and ability; and it would be as unjust to condemn them because they were not the possessors of every excellence, as it would be preposterous to censure Columbus, for not having discovered the western world, in a colossal ship propelled by steam.

THE

# BLUE LAWS OF CONNECTICUT.

# BLUE LAWS OF CONNECTICUT.

## I.

### The Constitution or Civil Compact,

ADOPTED BY THE TOWNS OF WINDSOR, HARTFORD, AND WEATHERSFIELD, IN **1638-9.**

FORASMUCH as it hath pleased the Almighty God, by the wise disposition of his divine providence, so to order and dispose of things, that we the Inhabitants and residents of Windsor, Hartford, and Weathersfeild, are now cohabiting, and dwelling in and uppon the river of Conneticutt, and the lands thereunto adjoining, and well knowing when a people are gathered together, the word of God requires, that to meinteine the

peace and union of such a people, there should bee an orderly and decent governement established according to God, to order and dispose of the affaires of the people at all seasons, as occassion shall require; doe therefore associate and conjoine ourselves to bee as one publique STATE or COMMONWEALTH; and doe for ourselves and our successors, and such as shall bee adjoined to us at any time hereafter, enter into combination and confederation together, to meinteine and preserve the libberty and purity of the Gospell of our Lord Jesus, which we now profess, as also the discipline of the churches, which, according to the truth of the said Gospell, is now practised amongst us; as allso in our civill affaires to be guided and governed according to such lawes, rules, orders, and decrees, as shall bee made, ordered, and decreed, as followeth:

1. It is ordered, sentenced, and decreed, That there shall bee yearly two Generall Assembly's or Courts, the one the second Thursday in Aprill, the other the second Thursday in September following: The first shall bee called the Courte of Election, wherein shall bee yearely chosen, from time to time, so many magistrates and other publique officers, as shall bee found requisite, whereof one to bee chosen Governor for the yeare ensuing, and untill another bee chosen, and no other magistrate to bee chosen for more then one yeare; provided always, there bee six chosen beside the Governor, which being chosen and sworne according to an oath recorded for that purpose, shall have power to administer justice according to the lawes here established, and for want thereof, according to the rule of the word of God; which choyce shall bee made by all that are admitted Freemen, and have taken the oath of fidelity, and do cohabit within this jurissdiction, having beene admitted inhabitants by the major parte of the town where they live or the major parte of such as shall bee then present.

2. It is ordered, sentenced, and decreed, That

the Election of the aforesaid magistrate shall bee on this manner; every person present and qualified for choyce, shall bring in (to the persons deputed to receive them) one single paper, with the name of him written in it whom he desires to have Governor, and hee that hath the greatest number of papers shall bee Governor for that yeare: And the rest of the Magistrates or publique officers, to be chosen in this manner; the Secretary for the time being, shall first read the names of all that are to bee put to choyce, and then shall severally nominate them distinctly, and every one that would have the person nominated to bee chosen, shall bring in one single paper written uppon, and hee that would not have him chosen, shall bring in a blanke, and every one that hath more written papers than blanks, shall bee a magistrate for that yeare, which papers shall bee received and told by one or more that shall bee then chosen, by the Courte, and sworne to bee faithfull therein; but in case there should not bee six persons as aforesaid, besides the Governor, out of those which are nominated, then hee or they which have the

most written papers, shall bee a Magistrate or Magistrates for the ensuing yeare, to make up the aforesaid number.

3. It is ordered, sentenced, and decreed, That the Secretary shall not nominate any person, nor shall any person bee chosen newly into the Magistracy, which was not propounded in some General Courte before, to bee nominated the next election: And to that end, it shall be lawfull for each of the Townes aforesaid, by theire Deputies, to nominate any two whoe they conceive fitt to be put to election, and the Courte may add so many more as they judge requisite.

4. It is ordered, sentenced, and decreed, That no person bee chosen Governor above once in two years, and that the Governor bee always a member of some approved congregation, and formerly of the magistracy, within this Jurissdiction, and all the Magistrates, ffreemen of this Commonwealth; and that no Magistrate or other publique Officer, shall execute any parte of his or theire office before they are severally sworne, which shall bee done in the face of the Courte, if they bee

present, and in case of absence, by some deputed for that purpose.

5. It is ordered, sentenced, and decreed, That to the aforesaid Courte of Election, the severall Townes shall send theire Deputyes, and when the Elections are ended they may proceed in any publique service, as at other Courtes; allso, the other Generall Courte in September, shall bee for making of lawes and any other publique occassion, which concerns the good of the Commonwealth.

6. It is ordered, sentenced, and decreed, That the Governor shall, either by himselfe or by the Secretary, send out summons to the Constables of every Towne, for the calling of these two standing Courts, one month at least before theire severall times; And allso, if the Governor and the greatest parte of the magistrates see cause, uppon any speciall occassion, to call a Generall Courte, they may give order to the Secretary so to doe, within fourteene dayes warning, and if urgent necessity so require, uppon a shorter notice, giving sufficient grounds for it, to the Deputys, when they meete, or else, bee questioned for the same;

and if the Governor and major parte of the Magistrates, shall either neglect or refuse, to call the two Generall standing Courts, or either of them; as allso, at other times, when the occassions of the Commonwealth require; the Freemen thereof, or the major parte of them, shall petition to them so to doe, if then it bee either denied or neglected, the said Freemen or the major parte of them, shall have power to give order to the Constables of the severall Towns to doe the same, and so many meete together and choose to themselves a moderator, and may proceed to doe any act of power which any other Generall Courte may.

7. It is ordered, sentenced, and decreed, That after there are warrants given out for any of the said Generall Courts, the Constable or Constables of each Towne shall forthwith give notice distinctly to the inhabitants of the same, in some publique Assembly, or by going or sending from howse to howse, that at a place and time, by him or them limited and sett, they meete and assemble themselves together, to elect and choose certaine Deputies to bee at the Generall Courte then following, to agitate

the affaires of the Commonwealth; which said Deputies, shall bee chosen by all that are admitted inhabitants in the severall Towns and have taken the oath of fidelity: provided, that none bee chosen a Deputye for any Generall Courte which is not a Freeman of this Commonwealth: The aforesaid, Deputyes shall bee chosen in manner following; Every person that is present and qualified as before expressed, shall bring the names of such written in severall papers, as they desire to have chosen, for that employment; and these three or foure, more or less, being the number agreed on to bee chosen, for that time, that have greatest number of papers written for them, shall bee Deputyes for that Courte; whose names shall be indorsed on the backside of the warrant and returned into the Courte, with the Constable or Constables hand unto the same.

8. It is ordered, sentenced, and decreed, That Wyndsor, Hartford and Weathersfeild, shall have power, each Towne, to send foure of theire Freemen as theire Deputyes, to every Generall Courte, and whatsoever other Townes shall bee hereafter added to this Jurissdiction,

they shall send so many Deputyes, as the Courte shall judge meete: a reasonable proportion to the number of Freemen, that are in the said Towns, being to bee attended therein; which Deputyes shall have the power of the whole Towne, to give theire voates and allowance to all such lawes and orders, as may bee for the publique good, and unto which the said Towns are to bee bound; And it is allso ordered, that if any Deputyes shall bee absent uppon such occassions, as the Governor for the time being, shall approve of, or by the Providence of God, shall decease this life within the adjournment of any Courte, that it shall bee at the libbertye of the Governor to send forth a warrant, in such case, for supply thereof uppon reasonable warning.

9. It is ordered, sentenced and decreed, That the Deputyes thus chosen, shall have power and libberty, to appoint a time and place of meeting together, before any Generall Courte, to advise and consulte of all such thinges as may concerne the good of the publique; as allso to examine theire owne Elections, whether according to the order; and if

they or the greatest parte of them, finde any election to be illegall, they may seclude such for present, from theire meetinge, and returne the same and theire reasons to the Courte; and if it proove true, the Courte may fyne the party or partyes so intruding, and the Towne if they see cause, and give out a warrant to goe to a new election in a legall way, either in parte or in whole. Allso the said Deputyes shall have power to fyne any that shall bee disorderly at theire meeting, or for not coming in due time or place, according to appointment, and they may returne the said fyne into the Courte, if it bee refused to bee paid, and the Treasurer to take notice of it, and to estreite or levye as hee doth other fynes.

10. It is ordered, sentenced and decreed, That every generall Courte (except such as through neglect of the Governor and the greatest parte of Magistrates, the Freemen themselves doe call,) shall consiste of the Governor or some one chosen to moderate the Courte, and foure other Magistrates at least, with the major parte of the Deputyes of the several Towns legally chosen, and in case the Freemen

or the major parte of them, through neglect or refusall of the Governor and major parte of the Magistrates, shall call a Courte, it shall consiste of the major parte of Freemen, that are present, or their Deputyes, with a moderator chosen by them, in which said Generall Courts, shall consiste the Supreme power of the Commonwealth, and they onely shall have power to make lawes and repeale them, to graunt levyes, to admit of Freemen, dispose of lands undisposed of, to severall Towns or persons; and allso, shall have power to call either Courte or Magistrate, or any other person whatsoever into question, for any misdemeanor, and may for such cause, displace, or deale otherwise, according to the nature of the offence; and allso may deale in any other matter that concernes the good of this Commonwealth, except election of Magistrates, which shall bee done by the whole body of Ffreemen; in which Courts the Governor or Moderator shall have the power to order the Courte, to give libbertye of Speech, and silence unreasonable and disorderly speaking, to put all things to voate, and in case the voate

bee equall, to have the casting voice: But none of these Courts shall bee adjourned or dissolved without the consent of the major parte of the Courte. Provided, notwithstanding, that the Governor or Deputy Governor, with two Magistrates shall have power to keepe a Perticular Courte according to the lawes established: And in case the Governor or Deputy Governor bee absent, or some way or other incapable either to sitt or to bee present; if three Magistrates meete and chuse one of themselves to bee a Moderator, they may keepe a Perticular Courte, which to all ends and purposes shall bee deemed as legall as though the Governor or Deputy did sitt in Courte.

11. It is ordered, sentenced, and decreed, That when any Generall Courte, uppon the occassions of the Commonwealth, have agreed uppon any summ or summs of monye, to be levyed uppon the severall Townes within this Jurissdiction, that a Committee bee chosen, to sett out and appoint, what shall bee the proportion of every Towne to pay of the said

levye; Provided the Comittee bee made up of an equall number out of each Towne.(1)

*Forasmuch as the free fruition of such libberties, immunities, priviledges, as humanity, civility and Christianity call for, as due to every man in his place and proportion, without impeachment and infringement, hath ever beene and ever will bee the tranquillity and stabillity of Churches and Commonwealths; and the denyall or deprivall thereof, the disturbance, if not ruine of both:*

It is thereof ordered by this Courte, and authority thereof, That no man's life shall bee taken away; no man's honor or good name shall be stained; no man's person shall bee arrested, restreined, bannished, dismembred, nor any way punnished; no man shall bee deprived of his wife or children; no man's goods or estate shall bee taken away from him nor

(1) The eleven preceding sections were "voated" or enacted at a General Courte, held January 14th, 1638; and the following provision was added at the revision in 1650.

any ways indammaged, under colour of law, or countenance of authority; unless it bee by the vertue or equity of some express law of the Country warranting the same, established by a Generall Courte and sufficiently published, or in case of the defect of a law, in any perticular case, by the word of God.

## II.

# The Code of 1650.

A COLLECTION OF THE EARLIEST LAWS AND ORDERS OF THE GENERAL COURT OF CONNECTICUT.

## ABILITY.

It is ordered by this Courte, that all persons of the age of twenty-one years, and of right understanding and memorye, whether excommunicated, condemned or otherways, have full power and libberty to make their Wills, Testaments, and other lawfully Alienations of their goods and estates, and may bee plaintiffs in a civill Case.

1. *Eleusine exciverat.* Vulgò *Eleusi* mutavit J. Gronvius, figi rmantque Flor. et Reus iscrn quibus mendo sè.

## ACTIONS.

Rhenanum *ducenta millia* præferunt. Josephus, Zonaras.

It is further ordered and decreed, That in all Actions brought to any Courte, the Plaintiff

shall have libberty to withdraw his Action, or to be nonsuted before the Jury have given in theire verdict, in which case, hee shall always pay full costs and charges to the defendant, and may afterwards renew his sute at another Courte, the former nonsute being first recorded.

## AGE.

It is ordered by this Courte and the authority thereof, that the Age for passing away of lands or such kinde of hereditaments, or for giving of voates, or sentences in any Civill Courts or Causes, shall bee twenty and one yeares; but in case of choosing of Guardians, fourteene years.

## ARRESTS.

It is ordered, and decreed by this Court and authority thereof, That no person shall bee Arrested or imprisoned for any debt or fyne, if the law can find any competent means of satisfaction otherwise, from his estate, and if not, his person may bee arrested and imprisoned, where hee shall bee kept at his owne charge, not the plaintiffs, till satisfaction bee

made, unless the Courte that had cognicance of the cause, or some superior Courte, shall otherwise determine. Provided, nevertheless, that no man's person shall be kept in prison for debt, but when there appears some estate which hee will not produce; to which end, any Courte or Commissioners authorized by the General Courte, may administer an oath to the partye, or any others suspected to bee privy in concealing his estate, hee shall satisfye by service, if the creditor require it; but shall not bee sould to any, but of the English nation.

## ATTACHMENT.

It is ordered, sentenced, and decreed, That the ordinary summons or process for the present, within this Jurissdiction, and untill other provision made to the contrary, bee a warrant, fairely written, under some Magistrate or Magistrates hand or hands, mentioning the time and place of appearance, and if the said partye or partyes do not appeare according to the said warrant or summons, uppon Affidavitt first made, of the serving of the said person or persons, the Courte shall graunt an attachement

against the person or persons delinquent, to arrest or aprehend the said person or persons for his or theire willfull contempt, and in case no sufficient securitye or bayle bee tendred, to imprison the said partye or partyes returneable the next Courte, that is capeable to take cognisance of the said business in question, and uppon return of the said Attachement, the said said Courte to doe therein, as according to the laws and orders of this Jurissdiction, and in that case allso, the party delinquent to beare his owne charges.

It is allso ordered, That attachements to seize uppon any man's lands or estate bee onely graunted for, or against, such goods as are fforreigner's, and doe not dwell or inhabitt within this Jurissdiction: or, in case uppon credible information it appeare, that any inhabitant that is indebted, or ingaged, go about to convey away his estate to defraud his creditors, or to convey away his person out of this Jurissdiction, so as the process of this Jurissdiction may not bee served upon his person, in that or any other just cases, there may bee Attachement, or Attachements graunted uppon

the limitations expressed; provided, that in all cases of Attachements, all or any of the creditors have libberty to declare uppon the said Attachement, if hee come in at the return of the said Attachement; provided allso, that if any Attachement, laid uppon any man's estate uppon a pretence of a great summ; and if it bee not proved to bee due, in some neare portion to the summ challenged, and mentioned in the Attachement, then the security given shall bee lyable to such dammages as are susteined thereby.

It is further ordered and decreed by this Courte, That whosoever takes out an Attachement against any man's person, goods, chattles, lands or hereditaments, sufficient security and caution shall bee given by him to prosecute his action in the next courte, and to answer the defendant such costs as shall bee awarded to him by the Courte; and in all Attachements of goods, or lands, legall notice shall bee given unto the partye, or left in writing at his howse or place of usual abode, if hee live within this Jurissdiction; otherwise, his sute shall not proceed: And it is further ordered and declared, That every

man shall have libberty to replevye his cattle or goods impounded, distreined, seized or extended (unless it bee uppon execution after judgement, and in payment of ffynes:) provided in like manner hee put in good securitye to prosecute his replevye, and to satisfie such dammages, demaunds, or dues as his adversary shall recover against him in lawe.

## BALLAST.

It is ordered by this Courte and Authority thereof, That no ballast shall bee taken from any shoare in any Towne within this Jurissdiction by any person whatsoever, without allowance under the hands of those men that are to order the affaires in each Towne, uppon the penalty of six pence for every shovell full so taken; unless such stones as they had laid there before: It is allso ordered by the authority aforesaid, That no shipp nor other vessell shall cast out any Ballast in the channell or other place inconvenient, in any harbor within this Jurissdiction; uppon the penalty of Ten Pounds.

## BARRATRY.

It is ordered, decreed, and by this Courte declared, That, if any man bee proved and adjudged a common Barrater vexing others with unjust, frequent, and needless sutes; it shall bee in the power of Courtes, both, to reject his cause, and to punnish him for Barratry.*

## BILLS.

It is ordered by the authority of this Courte; That any Debt or Debts due uppon Bill or other speciallty, assigned to another, shall bee as good a debt, and estate, to the assignee, as it was to the assigner at the time of its assignation, and that it shall bee lawfull for the said assignee, to sue for and recover the said Debt due uppon Bill and so assigned, as fully as the originall Creditor might have done: provided the said assignment be made uppon the back-

* The Statute law of England punished the offense of common Barratry with extreme severity; for by VIII. of Elizabeth, c. 2, a penalty of six months' imprisonment was inflicted for it, and if the offender were an attorney, he was transported for seven years.—S. M. S

side of the Bill or speciallty, not excluding any just or cleare interest any man may have in any Bills or specialtyes made over to them by Letters of Attorneye, or otherwise.

## BOUNDS

### OF TOWNES AND PERTICULAR LANDS.

*Fforasmuch as the Bounds of Townes and of the lands of perticular persons are carefully to bee meintcincd, and not without great danger to bee removed by any; which notwithstanding, by deficiency and decay of markes, may at unawares bee done, whereby great jealousies of persons, trouble in Townes, and incumbrances in Courtes, doe often arise, which by due care and meanes might be prevented.*

It is therefore ordered by this Courte and authority thereof, That every Towne shall sett out their bounds within twelve months after the publishing hereof, and after their Bounds are graunted, and that when their Bounds are once sett out, once in the yeare, three or more persons in the Towne appointed by the Select

men, shall appointe with the adjacent Townes, to goe the Bounds betwixt theire said Townes, and renew their markes, which markes shall bee a great heape of Stones, or a trench of six foott long and two foott broad, the most ancient Towne (which for the River is determined by the Courte to bee Weathersfeild,) to give notice of the time and place of meeting for this perambulation, which time shall bee in the first or second month, uppon paine of five pounds for every Towne that shall neglect the same; provided, that the three men appointed for perambulation shall goe in theire severall quarters, by order of the select men, and at the charge of the severall Townes:

And it is further ordered, That if any perticular proprietor of lands lying in common with others shall refuse to goe by himselfe or his assigne, the Bounds betwixt his land and other mens, once a yeare, in the first or second month, beeing requested thereunto, uppon one weekes warning, hee shall forfeit for every day so neglecting, ten shillings, halfe to the party mooving thereto, the other halfe to the Towne; and the owners of all impropriated grounds

shall Bound every perticular parcell thereof with sufficient meare-stones and shall preserve and keepe them so, uppon the former penalty.

## BURGLARY AND THEFT.

*Fforasmuch as many persons of late yeares have beene and are apt to be injurious to the goods and lives of others, notwithstanding all care and meanes to prevent and punish the same;*

It is therefore ordered by this Courte and authority thereof, That if any person shall committ Burglary by breaking up any dwelling howse, or shall robb any person in the feild, or highwayes, such a person so offending, shall, for the first offence, bee branded on the forehead with the letter (B); if hee shall offend in the same kinde, the second time, hee shall bee branded as before, and allso, bee severely whipped; and if hee shall fall into the same offence the third time, hee shall bee put to death as being incorrigible; and if any person shall commit such Burglary, or rob in the feilds or howse on the Lords day, besides the former punishments, hee shall for the first

offence have one of his eares cutt of, and for the second offence in the same kinde, he shall looss his other eare in the same manner; and if hee fall into the same offence the third time, hee shall bee put to death.

*Secondly, for the prevention of pillfring and Theft.*

It is ordered by this Courte and authority thereof, That if any person, whether children, servants or others, shall bee taken or known to robb any orchyards or garden, that shall hurte or steale away any grafts or fruite trees, fruits, linnen, woollen, or any other goods left out in orchyards, gardens, backsides, or other place, in howse or feilds, or shall steale any wood, or other goods from the water side, from mens dores and yards, hee shall forfeitt treble dammage to the owners thereof, and such seveere punnishment as the Courte shall thinke meete.

*And forasmuch as many times it so falls out, that small thefts and other offences of a criminall nature are committed, both by English and Indians in Townes remote from any prison, or*

*other fitt place, to which such malefactors may bee committed till the next Courte;*

It is therefore hereby ordered, That any Magistrate uppon complaint made to him, may heare, and uppon due proofe determine, any such small offences of the aforesaid nature, according to the lawes heere established, and give warrant to the Constable of that Towne where the offender lives, to levye the same: provided the damage or fyne exceed not forty shillings; provided allso, it shall bee lawfull for either partye to appeal to the next Courte to bee holden in that Jurissdiction, giving sufficient caution to prosecute the same to effect, at the said Courte; and every magistrate shall make returne yearly to the Courte of the Jurissdiction wherein hee liveth, of what cases he hath so ended; and allso the Constable, of all such fynes as they have received, and where the offender hath nothing to satisfie, such Magistrate may punnish by stocks or whipping as the cause shall deserve.

It is allso ordered that all servants or workemen imbeazling the goods of theire masters

or such as sett them on worke, shall make restitution and bee lyable to all lawes and penaltyes, as other men.

## CAPITALL LAWES.

1. If any man after legall conviction, shall have or worship any other God but the Lord God, hee shall bee put to death. Deut. 13. 6—17. 2.—Exodus 22. 20.

2. If any man or woman bee a Witch, that is, hath or consulteth with a familliar spirritt, they shall bee put to death. Exodus 22. 18.—Levit 20. 27.—Deut. 18. 10, 11.

3. If any person shall blaspheme the name of God the ffather, Sonne or holy Ghost, with direct, express, presumptuous or highhanded blasphemy, or shall curse in the like manner, hee shall bee put to death. Lev. 24. 15, 16.

4. If any person shall committ any willfull murther, which is manslaughter committed uppon malice, hatred or cruelty, not in man's necessary and just defence, nor by mere casualty against his will, hee shall be put to death. Exo. 21. 12, 13, 14.—Numb. 35, 30, 31.

5. If any person shall slay another through

guile, either by poisonings or other such Devellish practice, hee shall bee put to death. Exo. 21. 14.

6. If any man or woman shall lye with any beast or bruite creature, by carnall copulation, they shall surely bee put to death, and the beast shall be slaine and buried. Levit. 20. 15, 16.

7. If any man lyeth with mankind as hee lyeth with woman, both of them have committed abomination, they both shall surely be put to death.—Levit. 20. 13.

8. If any person committeth adultery with a married or espoused wife, the Adulterer and the Adulteress shall surely bee put to death. Levit. 20. 10, and 18. 20.—Deut. 22. 23, 24.

9. If any man shall forcibly, and without consent, Ravish any maide, or woman that is lawfully married or contracted, hee shall bee putt to death.—Deut. 22. 25.

10. If any man stealeth a man or mankinde, hee shall bee put to death.—Exodus 21 16.

11. If any man rise up by false wittness, wittingly and of purpose to take away any

man's life, hee shall bee put to death.—Deut. 19. 16. 18. 19.

12. If any man shall conspire or attempt any invasion, insurrection or rebellion against the Commonwealth, hee shall bee put to death.

13. If any Childe or Children above sixteene years old and of suffitient understanding, shall Curse or smite their naturall father or mother, hee or they shall bee put to death; unless it can bee sufficiently testified that the parents have beene very unchristianly negligent in the education of such children, or so provoke them by extreme and cruell correction that they have beene forced thereunto to preserve themselves from death, maiming.—Exo. 21. 17.—Levit. 20.—Ex. 21. 15.

14. If any man have a stubborne and rebellious sonne of sufficient yeares and understanding, viz. Sixteene yeares of age, which will not obey the voice of his father or the voice of his mother, and that when they have chastened him will not hearken unto them; then may his ffather and mother, being his naturall parents, lay hold on him and bring him to the Magistrates assembled in Courte, and testifie unto

them, that theire sonne is stubborne and rebellious and will not obey theire voice and Chastisement, but lives in sundry notorious Crimes, such a sonne shall bee put to death. Dut. 21. 20, 21.

It is allso ordered by this Courte, and authority thereof, That whatsoever Childe or servant within these Libberties, shall bee convicted of any stubborne, or rebellious carriage against their parents or governors, which is a forrunner of the aforementioned evills; the Governor or any two Magistrates have libberty, and power from this Courte, to committ such person or persons to the House of Correction; and there to remaine under hard labour, and severe punnishment so long as the Courte, or the major parte of the Magistrates, shall judge meete.

*And whereas frequent experience, gives in sad evidence of severall other wayes of uncleanes, and lascivious carriages, practised amongst us; whereunto in regarde of the variety of circumstances, perticular and express lawes and orders cannott suddenly be suted; this Courte cannott*

*but looke upon evills in that kinde, as very pernitious and destructive to the wellfare of this Commonwealth:*

And, doe judge, that severe and sharpe punnishment, should bee inflicted upon such delinquents; And as they doe approve of what hath beene already done, by the perticular Courte, as agreeing with the Generall power formerly graunted; so they doe hereby confirme the same power to the perticular Courte; whoe may proceed either by fyne, committing to the house of correction, or other corporall punnishment, according to theire discretion; desiring such seasonable and exemplary executions, may bee done upon offenders in that kinde, that others may heare and feare.

## CASCK AND COOPER.

It is ordered by this Courte and Authority thereof, That all Casck used for Tarr or other commodityes to bee put to sale, shall bee assized as followeth: viz: Every Casck, commonly called barrills, or halfe-hogs heads, shall contain twenty-eight gallons wine measure, and other vessells proportionable; and that fitt

persons shall be appointed from time to time, in all placess needfull to gage all such vessells or Cascks, and such as shall be found of due assize shall be marked with the gagers marke and no other, who shall have for his paines foure pence for every Tunn, and so proportionably.

And, It is also ordered, that every Cooper shall have a distinct brand-marke, on his owne Casck, upon paine of forfeiture of Twenty shillings in either case, and so proportionably for lesser vessells.

## CATTLE, CORNEFEILDS, FFENCES.

*Fforasmuch as complaints have beene made of a very evill practise of some disordered persons in the country whoe use to take other mens horses, sometimes upon the Commons, sometimes out of theire owne grounds, common feilds, and inclosures, and ride them at theire pleasure, without any leave or privity of theire owners:*

It is therefore ordered and Enacted, by the authority of this Courte, that whosoever shall take any other mans Horse, Mare, or Drawing Beast, out of his inclosure, uppon any Common,

out of any common-feild or elsewhere; Except such bee taken dammage-faisant, and disposed of according to law, without leave of the owners, and shall ride or use the same, hee shall pay the partye wronged, treble dammages, or if the complainant shall desire it, then to pay only ten shillings, and such as have not to make satisfaction, shall bee punished by whipping, imprisonment, or otherwise, as by law shall be adjudged; And any one magistrate may heare and determine the same.

It is allso further ordered, That where lands lye in common, unfenced; if one shall improve his lands, by fencing in severall, and another shall not; hee whoe shall so improve, shall secure his land against other mens cattle, and shall not compell such as joine uppon him, to make any fence with him; except hee shall allso improve in severall, as the other doth: And where one man shall improve, before his neighbour, and so make the whole fence, if after his said neighbour shall improve also, he shall then satisfie for halfe the others fence against him, according to the present value, and shall meinteine the same: And if either of them shall

after lay open his said feilds (which none shall doe without three months warning) he shall have liberty, to buy the dividend fence, payinge according to the present valuation, to bee sett by two men, chosen by either party one: The like shall bee, where any man shall improve land, against any Towne Common; provided, this order shall not extend to house lotts, not exceeding ten acres; but, if in such, one shall improve, his neighbour shall be compellable to make and meinteine one halfe of the fence between them, whether he improve or not.

Provided allso, that no man shall bee lyable to satisfie for dammage done in any ground not sufficiently fenced; except it shall bee for dammage done by swyne under a yeare old, or unruly Cattle, which will not be restreined by ordinary ffences, or where any man shall put his Cattle, or otherwise voluntarily trespass uppon his neighbours ground: And if the partye damnified find the Cattle dammage-faisant, hee may impound or otherwise dispose of them.*

* At a session of the General Court, in October 1652, it was declared and explained, that this order did not reach the lands on the east side of the great river.

## CATTLE TO BE MARKED.

*Ffor the preventing of differences that may arise &c. in the owning of cattle, that bee lost or stray away:*

It is ordered by this Courte, that the owners of any Cattle within this Jurissdiction, shall eare marke or brand all theire Cattle and swyne, that are above halfe a yeare old (except horses) and that they cause theire severall markes to bee registred in the towne booke; and whatsoever cattle shall be found unmarked, after the first of July next, shall forfeitt five shillings a head, whereof two shillings sixpence to him that discovers it, and the other to the country.

## COMMON FFEILDS.

*Whereas the condition of these severall plantations in these beginnings, wherein we are, is such, that necessity constraines to improve much of the ground belonging to the severall townes, in a common way, and it is observed, that the publique and generall good (which ought to bee attended in all such improvements as are most propper to them, and may best advance the same)*

*receives much prejudice through want of prudent ordering and disposing of those severall common lands, so as may best effect the same:*

It is ordered by this Courte and authority thereof, That each towne shall chuse from among themselves, five able and discreet men, whoe, by this order, have power given them, and are required, to take the common lands belonging to each of the severall townes respectively, into serious and sadd consideration, and after a thorough digesting of theire owne thoughts, sett downe under theire hands, in what way the said lands may, in theire judgments, bee best improved for the common good; And whatsoever is decreed and determined by the saide five men in each towne, or any three of them, concerning the way of improvement of any such lands, shall bee attended by all such persons that have any propriety or interest in any such lands so judged.

*And whereas also, much dammage hath arisen, not onely from the unrulines of some kinde of cattle, but also from the wealknes and insufficiency of many fences, whereby much variance and differ-*

*ence hath followed, which, if not prevented for the future, may bee very prejuditiall to the publique peace;*

It is likewise, therefore ordered, that the said five men, so chosen, or at least, three of them, shall sett downe what fences shall bee made in any common grounds, and after they are made, to cause the same to bee viewed, and to sett such fynes as they judge meete, upon any as shall neglect, or not duely attend theire order therein; and what fences are made and judged sufficient by them, whatsoever dammage is done by hoggs or any other cattle, shall bee paid by the owners of the said cattle. And the severall townes shall have libberty once every yeare, to allter any three of the former five, and to make choyce of others in theire roome: It being provided, that any perticular man or men shall have libberty to inclose any of theire perticular grounds, and improve them according to theire owne discretion, by mutuall agreement, notwithstanding this order.

## CAVEATS ENTRED.

Whereas it appears, that divers, to defeat and

defraud theire creditors, may secreetly and under hand, make bargaines and contracts of theire lands, lotts and accommodations, by means whereof, when a creditor thinkes hee hath a meanes, in due order of law, to declare against the said lands, lotts and accommodations, and so recover satisfaction for his debt, hee is wholly deluded and frustrated, which is contrary to a righteous rule, that every man should pay his debt with his estate, bee it in what it will bee, either reall or personall; this courte taking it into consideration, doe order, sentence and decree, that if any creditor, for the future, doe suspect any debtor, that hee may prove non-solvent in his personall estate, hee may repaire to the register or recorder of the plantation where the lands, lotts or accommodations lyes, and enter a caveatt against the lands, lotts or accommodations of the said debtor, and shall give to the said register or recorder foure pence for the entry thereof; and the said creditor or creditors shall take out summons against the said debtor, and in due forme of law, the next perticular courte, either for the whole colony, or for the perticular plan-

tation where the said lands, lotts or accommodations lyes, or the next courte ensuing, declare, against the said debtors lands, lotts and accommodations: And so if the creditor recover, hee may enter a judgement uppon the said lotts, lands and accommodations, and take out an extent against the said land, directed to a knowne officer, whoe may take two honest and sufficient men of the neighbours, to apprize the said lands, lotts, and accommodations, either to be sould out right, if the debtor so require, or sett a reasonable rent uppon the same, untill the debt bee paid, and deliver the possession thereof either to the creditor or creditors, his or theire assignee or assigns, or any other; and what sale or sales, lease or leases the said officer makes, being orderly recorded, according to former order of recording of lands, shall be as legall and bynding, to all intents and purposes, as though the debtor himselfe had done the same: Provided that if the said debtor can then presently procure a chapman or tennant that can give to the creditor or creditors, satisfaction to his or theire content, he shall have the first refusing thereof: Allso it is declared,

that hee which first enters caveatts as above said, and his debt being due at his entering the said caveatt, shall be first paid; and so every creditor, as hee enters his caveatt, and his debt becomes due, shall be orderly satisfied; unless it appears at the next courte, the debtors lands, lotts and accommodations prove insufficient to pay all his creditors, then every man to have a suitable proportion to his debt out of the same; and yet notwithstanding every man to receive his parte according to the entry of his caveatt; yet this is not to seclude any creditor to recover other satisfaction, either uppon the person or estate of the said debtor, according to the lawe and custome of the colony: As allso, it is further decreed, that what sale or bargaine soever, the debtor shall make concerning the said lotts, lands and accommodations, after the entring of the said caveatt, shall be voide as to defraude the said creditors.

It is allso further explained and declared, That if the said debtor bee knowne to bee a non-solvent man before the first caveatt entred against the said lotts, lands and accommodations and the same appeare at the next perticu-

lar courte, then the courte shall have power to call in all the creditors in a shorte time, and sett an equall and indifferent way how the creditors shall bee paid out of the said lotts, lands and accommodations; otherwise, if the said debtor proove insolvent after the first caveatt entred, then this order to be dulye observed according to the premises, and true intent and meaning thereof.

It is allso further declared, and explained, that the said recorder or register of the said caveatt shall, the next perticular courte, as aforesaid, returne the said caveatts that are with him, at which time and courte, the enterers of the said caveatts shall be called forth to prosecute the same the next perticular courte following; and if the enterer of the said caveatts fail to prosecute according to this order, the register or recorder of the said caveatt or caveatts, shall put a vacatte upon the said caveatt or caveatts, which shall be invalid or voide to hold the said lotts, lands and accommodations aforesaid.

## DISSORDER IN COURTE.

It is ordered by this courte, that whosoever

doth dissorderly speake privately, during the sitting of the courte, with his neighbour, or two or three together, shall presently pay twelve pence, if the courte so thinke meett.

## SECREETS IN COURTE.

It is ordered and decreed, That whatsoever member of the generall courte, shall reveale any secreett that the courte enjoynes to be kept secreett, or shall make knowne to any person what any one member of the courte speakes concerning any person or business that may come into agitation, in the courte, shall forfeitt for every such fault, ten pounds, and bee otherwise dealt withall, at the discretion of the courte; and the secretary is to read this order at the beginning of every generall courte.

## CHILDREN.

*Eforassmuch as the good education of children is of singular behoofe and benefit to any commonwealth; and whereas many parents and masters are too indulgent and negligent of theire duty in that kinde:*

It is therefore ordered by this courte, and au-

thority thereof, That the selectmen of every towne in the severall precincts and quarters where they dwell, shall have a vigilent eye over theire brethren and neighbours, to see, first, that none of them shall suffer so much barbarisme in any of their familyes, as not to indeavor to teach by themselves or others, theire children and apprentices, so much learning, as may inable them perfectly to read the English tongue, and knowledge of the capitall lawes, uppon penalty of twenty shillings for each neglect therein; allso, that all masters of familyes, doe, once a week, at least, catechise their children and servants, in the grounds and principles of religion, and if any bee unable to doe so much, that then, at the least, they procure such children or apprentices to learne some shorte orthodox catechisme, without booke that they may bee able to answer to the questions that shall bee propounded to them out of such catechismes by theire parents or masters, or any of the selectmen, where they shall call them to a tryall of what they have learned in this kinde; and further, that all parents and masters doe breed and bring up theire

children and apprentices in some honest lawfull calling, labour or imployment, either in husbandry or some other trade proffitable for themselves and the commonwealth, if they will not nor cannott traine them up in learning, to fitt them for higher imployments; and if any of the selectmen, after admonition by them given to such masters of familyes, shall finde them still negligent of theire duty, in the perticulars aforementioned, whereby children and servants become rude, stubborne and unruly, the said selectmen, with the helpe of two magistrates, shall take such children or apprentices from, them, and place them with some masters for years, boyes till they come to twenty-one, and girles eighteene years of age compleat, which will more strictly looke unto and force them to submitt unto governement, according to the rules of this order, if by faire means and former instructions they will not bee drawne unto it.

## CONSTABLES.

It is further ordered by the authority aforesaid, that any person tendered to any constable

of this jurissdiction, by any constable or other officer belonging to any fforeinge jurissdiction in this country, or by warrant from any such authority, such shall presently bee received and conveyed forthwith, from constable to constable, till they shall bee brought unto the place to which they are sent, or before some magistrate of this jurissdiction, whoe shall dispose of them, as the justice of the cause shall require, and that all hue and cryes shall be duely received and dilligently pursued to full effect.

It is ordered by the authority of this Courte, That every constable within one jurissdiction shall, henceforth, have full power to make, signe and put forth, persuits or hue and cryes, after murthers, malefactors, peacebreakers, theeves, robbers, burglarers, and other capitall offenders, where no magistrate is neare hand; allso, to apprehend, without warrant, such as are overtaken with drinke, swearing, saboath-breaking, slighting the ordinances, lying, vagrant persons, night-walkers, or any other that shall offend in any of these: Provided, they bee taken in the *manner*, either by sighte of the constable, or by present information from

others; as allso, to make search for all such persons, either on the saboath day, or other, when theire shall bee occasion, in all howses lycenced to sell either beare or wyne, or in any other suspected or dissordered places, and those to apprehend and keepe in safe custody, till opportunity serves to bring them before one of the next magistrates, for further examination; provided, that when a constable is employed by any of the magistrates for apprehending of any person, hee shall not doe it without warrant in writing; and if any person shall refuse to assiste any constable in the execution of his office, in any of the things aforementioned, being by him required thereto, they shall pay for neglect thereof, ten shillings to the use of the country, to bee levyed by warrant from any magistrate before whom any such offender shall be brought; and if it appeare, by good testimony, that any shall willfully, obstinately or contemptuously, refuse or neglect to assiste any constable, as is before expressed, hee shall pay to the use of the country, forty shillings; and if any magistrate or constable, or any other,

uppon urgent occasions, shall refuse to doe their best indeavor in raising and prosecuting hue ond cryes, by foott, and if need bee, by horse, after such as have committed capitall crimes, they shall forfeitt, for the use aforesaid, for every such offence, forty shillings.

And it is allso ordered, That the constables in each towne, shall be chosen from yeare to yeare, before the first of March, and sworne to that office the next courte following, or by some magistrate or magistrates

## CONVEYANCES FRAUDULENT.

It is ordered by this Courte, and authority thereof, That all covenous or fraudulent alienations or conveyances of lands, tenements or any hereditaments, shall bee of no validity to defeat any man from due debts or legacyes, or from any just title, clayme or possession of that which is so fraudulently conveyed; and that no conveyance, deed or promise whatsoever, shall bee of validity, if it bee gotten by illegal violence, imprisonment, threatening, or any kind of forcible compulsion, called *dures.*

THE LIBRARY

## CRUELTY.

It is ordered by this Courte, and authority thereof, That no man shall exercise any tiranny or cruelty towards any brute creatures, which are usually kept for the use of man.

## DAMMAGES PRETENDED.

It is ordered by this Courte, That no man in any sute or action against another, shall falsely pretend great dammages or debts, to vexe his adversary; and if it shall appeare any doth so, the Courte shall have power to sett a reasonable fyne on his head.

## DEATH UNTIMELY.

It is ordered by this Courte and authority thereof, That whensoever any person shall come to any very sudden, untimely or unnaturall death, some magistrate, or the constable of that towne, shall forthwith summon a jury of sixe or twelve discreet men to inquire of the cause and manner of theire death, whoe shall present a true verdict thereof, unto some neare magistrate, uppon theire oath.

## DELINQUENTS.

It is ordered, That all persons hereafter Committed uppon delinquency, shall beare the charges the country shall bee at in the prosecution of them; and shall pay to the master of the prison or howse of correction, two shillings six pence, before hee bee freed therefrom. *Vide* execution upon delinquents.

## ECLESEASTICALL.

*Fforasmuch, as the open contempt of God's word, and messengers thereof, is the desolating sinne of civill states and churches, and that the preaching of the word by those whome God doth send, is the cheife ordinary means ordained by God, for the converting, edefying and saving the soules of the elect, through the presence and power of the Holy Ghost thereunto promised; and that the ministry of the word is sett up by God in his churches for those holy ends; and according to the respect and contempt of the same, and of those whome God hath sett aparte for his owne worke and imployment, the weale or woe*

*of all christian states, is much furthered and promoted:*

It is therefore ordered and decreed, That if any christian, so called, within this jurissdiction, shall contemptuously beare himselfe towards the word preached, or the messengers that are called to dispense the same in any congregation, when hee doth faithfully execute his service, and office therein, according to the will and word of God, either by interrupting him in his preaching, or by charging him falsely with an error, which hee hath not taught, in the open face of the church, or like a sonne of Korah, cast uppon his true doctrine, or himselfe, any reproach to the dishonor of the Lord Jesus, whoe hath sent him, and to the disparagement of that his holy ordinance, and making Gods wayes contemptible and rediculous, that every such person or persons, whatsoever censure the church may passe, shall, for the first scandall be convented and reproved openly, by the magistrates, at some lecture, and bound to their good behaviour: And if a second time they breake forth into the like

contemptuous carriages, they shall either pay five pounds to the publique treasure, or stand two houres openly, uppon a block or stoole foure foott high, uppon a lecture day, with a paper fixed on his breast written with capital letters, AN OPEN AND OBSTINATE CONTEMNER OF GODS HOLY ORDINANCES, that others may feare and bee ashamed of breaking out into the like wickedness.

It is ordered and decreed by this Courte, and authority thereof, That wheresoever the ministery of the word, is established, according to the order of the gospell, throughout this jurisdiction, every person shall duely resorte and attend thereunto respectively, uppon the Lords day, and uppon such publique fast days, and dayes of thanksgiving, as are to bee generally kept by the appointment of authority: And if any person within this jurisdiction shall, without just and necessary cause, withdraw himselfe from hearing the publique ministry of the word, after due meanes of conviction used, hee shall forfeitt for his absence, from every such publique meeting, five shillings: All such offences to bee heard and determined

by any one magistrate, or more, from time to time.

*Eforasmuch, as the peace and prosperity of churches, and members thereof, as well as civill rights and libberties, are carefully to bee maintained.*

It is ordered by this Courte and decreed, That the civill authority heere established, hath power and libberty to see the peace, ordinances and rules of Christe, bee observed in every church, according to his word: As allso to deale with any church member, in a way of civill justice, notwithstanding any church relation, office or interest, so it bee done in a civill, and not in an ecleseasticall way, nor shall any church censure degrade or depose any man from any civill dignitye, office or authority hee shall have in the commonwealth.

## ESCHEATS.

It is ordered by this Courte and authority thereof, That where no heire or owner of howses, lands, tenements, goods or chattells, can bee found, they shall bee seized to the pub-

lique treasury, till such heirs or owners shall make due clayme thereunto; unto whome they shall bee restored uppon just and reasonable termes.

## EXECUTIONS.

*Whereas by reason of the great scarcity of mony execution being taken of severall persons goods, that have been sould at very cheape rates, to the extreme dammage of the debtor;*

It is therefore ordered, That whatsoever execution shall bee graunted uppon any debts made after the publishing of this order, the creditor shall make choyce of one partye, the debtor of a second, and the courte of a thirde, who shall prise the goods so taken uppon execution aforesaid, and deliver them to the creditor.

## EXECUTION UPPON DELINQUENTS.

It is ordered, That the governor, or any other magistrate in this jurissdiction, shall have libberty and power to call forth any person that hath beene publiquely corrected for any misbehavior, to doe execution uppon any person or persons, by whipping or otherwise; and that

at any time hereafter, as occassion doth require, and in case of defect or want of such, any other person, as hee or they shall thinke meete.

## FFENCES.

*Ffor the preventing of differences that may arise, in making or setting downe of fences, as well in meadows as up land.*

It is ordered, That in the setting of posts and rayles, or hedges in the meadow and home lotts, there shall bee a libberty for either partye of twelve inches from the dividend lyne, for breaking of the ground to set the posts on, for the laying on the hedges; but the stakes and postes are to be sett in the devident lyne; and in upland there is allowed a libbertye of foure foott for a ditch from the dividend lyne, ffor either of the bordering partyes, where the proportion of ffences belongs unto them.

## FFYNES.

It is ordered by this Courte, That the estreits for the levying of ffynes shall goe forth once every yeare, both in the townes on the river and by the sea side; and that some officer in

each place, shall bee appointed to levye and receive the same, and the accounts to bee given in by the severall plantations of theire generall charge, at the Courte in September, for the perfecting of the accounts betwixt them; Mr. Ludlow, is desired to graunt out warrants for the ffynes by the sea side.

## FFYRE.

It is ordered by this Courte and authority thereof, That whosoever shall kindle any fire in the woods or grounds lying in Common, or inclosed, so as the same shall runn into such corne grounds or inclosures, before the tenth of the first month, or after the last of the second month, or on the last day of the weeke, or on the Lords day, shall pay all dammages and halfe so much, for a fyne, or if not able to pay, then to bee corporally punished by warrant from one magistrate, or more, as the offence shall deserve, not exceeding twenty stripes for one offence; provided that any man may kindle fyre upon his owne ground, at any time, so as no dammage come thereby, either to the country or any perticular person; and whosoever

shall wittingly and willingly burne or destroy any frame, timber, hewne, sawne, or riven, heapes of wood, charcoale, corne, hay, strawe, hampe, fflaxe, pitch or tarr, hee shall pay double dammages.

## FFORGERIE.

It is ordered by this Courte, and authority thereof, That if any person shall forge any debt, or conveyance, testament, bond, bill, release, acquittance, letter of attorneye, or any writing to prevent equity and justice, he shall stand in the pillorye three severall lecture dayes, and render double dammages to the partye wronged; and allso, bee disabled to give any evidence or verdict to any Courte or magistrate.*

* In the penalty here attached to forgery, the framers of these laws deserve the praise of unusual clemency; for the Roman Civil Law punished the *crimen falsi* with banishment, and sometimes with death, while the Common Law of England also inflicted the penalty of death. Vide *Justinian's Institutes*, IV., 18, 7. *Blackstone's Comment.* IV. 247.—S. M. S.

## FFORNICATION.

It is ordered by this Courte and authority thereof, That if any man shall committ fornication, with any single woman, they shall bee punnished, either by injoyning to marriage, or fyne, or corporall punnishment, or all, or any these, as the Courte or magistrates shall appoint, most agreeable to the word of God.

## GAMING.

*Uppon complaint of great disorder, by the use of the game called shuffle board, in howses of common interteinement, whereby much precious time is spent unfruitfully, and much waste of wyne and beare occasioned;*

It is therefore ordered and enacted by the authority of this Courte, That no person shall henceforth use the said game of shuffle board in any such howse, nor in any other howse, used as common for such purpose, uppon payne for every keeper of such howse, to forfeitt for every such offence, twenty shillings: And for every person playing at the said game

in any such howse, to forfeitt for every such offence, five shillings; the like penalty shall bee for playing in any place, at any unlawfull game.

## GUARDS AT MEETING.

It is ordered by this Courte, That there shall bee a guard of twenty men every sabbath and lecture day, compleat in theire armes, in each severall towne upon the river, and at Seabrooke and ffarmington eight a piece; each towne uppon the sea side, in this jurissdiction, ten; and as the number of men increase in the townes, theire guardes are to increase: And it is further ordered, that each man in the guards aforesaid, shall bee allowed halfe a pound of powder yearely, by theire several townes.

## HIGHEWAYES.

*Whereas the mainteining of high wayes, in a fitt posture for passage, according to the severall occassions that occure, is not onely necessary, for the comfort and safety of man and beast, but tends to the proffitt and advantage of any people, in the issue;*

It is thought fitt and ordered, That each towne within this jurissdiction, shall, every yeare, chuse one or two of theire inhabitants, as surveyors, to take care of, and oversee the mending and repairing of the highways within their severall townes respectively, who have hereby, power allowed them to call out the severall cartes or person fitt for labour in each towne, two dayes at least, in each yeare, and so many more, as in his or theire judgements, shall bee found necessarry for the attaining of the aforementioned end, to be directed in theire worke by the said surveyor or surveyors, and it is left to his or theire libberties, either to require the labour of the severall persons in any familye, or of a teame and one person, where such are, as he finds most advantageous to the publique occassions, hee or they giving at least three dayes notice or warning beforehand, of such imployment; and if any refuse or neglect to attend the service in any manner aforesaid, hee shall forfeit for every days neglect of a mans worke, two shillings six pence, and of a team, sixe shillings; which said fynes shall bee imployed by the surveyors to hire others to worke in the said wayes;

and the surveyors shall within foure dayes after the severall dayes appointed for worke, deliver in to some magistrate, a true presentment of all such as have beene defective, with theire severall neglects, who are immediately to graunt a distress to the marshall or constable, for the levying of the incurred forfeiture, by them to bee delivered to the surveyors, for the use aforesaid; and if the surveyor neglect to performe the service hereby committed to him, either in not calling out all the inhabitants in theire severall proportions, as before, or shall not returne the names of those that are deficient, hee shall incurr the same penalty as those whome hee so passes by, are lyable to, by virtue of this order; which shall bee imployed to the use aforesaid, and to bee levyed allso by distress, uppon information and proofe before any one magistrate.

## IDLENES.

It is ordered by this courte and authority thereof, That no person, howseholder, or other, shall spend his time idlely or unprofitably, under paine of such punishment, as the courte

shall thinke meete to inflict, and for this end, it is ordered, that the constable of every place, shall use speciall care and dilligence, to take knowledge of offenders in this kinde; especially of common coasters, unproffitable fowlers, and tobacko takers, and present the same unto any magistrate, who shall have power to heare and determine the case, or transsfer it to the next courte.

## INDIANS.

It is ordered and decreed, That where any company of indians doe sitt downe neare any English plantations, that they shall declare who is theire Sachem or Cheife, and that the said Cheife or Sachem shall pay to the said English, such tresspasses as shall bee committed by any indian, in the said plantation adjoyning, either by spoyling or killing any cattle or swyne, either with trapps, doggs or arrowes; and they are not to pleade, that it was done by strangers, unless they can produce the partye, and deliver him or his goods into the custody of the English; and they shall pay the double dammage, if it were done voluntarily. The like ingagement

this courte allso makes to them, in case of wrong or injurye done to them by the English; which shall bee paid by the partye by whome it was done, if hee can bee made to appeare; or otherwise, by the towne in whose limmits such facts are committed.

*Fforasmuch, as our lenity and gentlenes towards indians, hath made them growe bold and insolent to enter into English mens howses and unadvisedly handle swords, and peeces, and other instruments, many times to the hazzard of limbs or lives of English or indians; and allso, oft steale diverse goods out of such howses where they resorte, for the preventing whereof,*

It is ordered, That whatsoever indian shall hereafter, meddle with, or handle any English mans weapons of any sorte, either in theire howses, or in the feilds, they shall forfeitt for every such defaulte, halfe a fathom of wampum; and if any hurte or injurye shall thereupon follow to any persons life or limbe, though accidentall, they shall pay life for life, limbe for limbe, wound for wound; and shall pay for the healing of such wounds, and other dammages:

And for any thinge they steale, they shall pay double, and suffer such further punnishment as the magistrates shall adjudge them. The constable of any towne may attache and arrest any indian that shall transsgress in any such kinde beforementioned, and bring them before some magistrate, who may execute the penalty of this order uppon offenders in any kinde, except life or limbe; and any person that doth see such defaults, may prosecute, and shall have halfe the forfeiture.

It is ordered by this courte, and authority thereof, That no man within this jurissdiction, shall directly, or indirectly, amend, repaire, or cause to be amended or repared, any gunn, small or great, belonging to any indian, nor shall indeavor the same, nor shall sell nor give to any indian, directly nor indirectly, any such gunn, nor any gunpowder or shott, or lead, or shott mould, or any millitary weapon or weapons, armor, or arrowe heads, nor shall sell nor barter, nor give any dogg or doggs, small or great, uppon paine of ten pounds fyne for every offence, at least, in any one of the aforementioned perticulars; and the court shall

have power to increase the fyne, or to impose corporall punishment, where a fyne cannott bee had, at theire discretion.

And it is allso ordered, That no person nor persons shall trade with them, at, or about theire wigwams, but in theire vessells or pinnaces, or at theire owne howses, on penalty of twenty shillings for each default.

*Whereas it doth appeare, that notwithstanding the former lawes make against selling gunns and powder, to indians, they are yet supplied by indirect means.;*

It is therefore ordered and decreed, That if any person, after publishing of this order, shall sell, barter, or transporte any gunns, powder, bullitts or lead, to any person inhabiting out of this jurissdiction, without license of this courte, or from some two magistrates, hee shall forfeitt for every gunn, ten pounds: for every pound of gun powder, five pounds; for every pound of bullitts, or lead, forty shillings; and so proportionably, for any greater or lesser quantity; provided notwithstanding, that is left to the judgement of the courte, that where

any offence is committed against the said order, either to agravate or lessen the penalty, according as the nature of the offence shall require.

*Whereas diverse persons departe from amongst us, and take up theire abode with the indians, in a prophane course of life for the preventing whereof;*

It is ordered, That whatsoever person or persons, that now inhabiteth, or shall inhabitt within this jurissdiction, and shall departe from us, and settle or joyne with the indians, that they shall suffer three years imprisonment, at least, in the howse of correction; and undergo such further censure, by fyne or corporall punnishment, as the perticular courte shall judge meete to inflict in such cases.

*Whereas the ffrench, Dutch, and other forraigne nations doe ordinarily trade gunns, powder, shott, &c. with the indians, to our great prejudice, and the strengthening and animating of the indians against us, as by dayly experirience we finde; and whereas the aforesaid ffrench, Dutch, &c. doe prohibitt all trade*

*with the indians, within theire respective jurissdictions, under penalty of confiscation;*

It is therefore, hereby ordered by this courte and authority thereof, That after due publication hereof, it shall not bee lawfull for any ffrenchmen, Dutchmen, or person of any other forraigne nation,or any English living amongst them, or under the government of them, or any of them, to trade with any indian or indians, within the limmits of this jurissdiction, either directly or indirectly, by themselves or others, under penalty of confiscation of all such goods and vessells, as shall bee found so trading, or the due value thereof, uppon just proofe made of any goods, of any vessells so trading or traded: And it shall bee lawful for any person or persons inhabiting within this jurissdiction, to make seizure of any such goods or vessells trading with the indians, as by this law is prohibited, the one halfe whereof shall bee to the propper use and benefit of the partye seizing, and the other to the publique.

This courte judging it necessary that some means should bee used to convey the light and

knowledge of God and his worde to the indians and natives amongst us, doe order, that one of the teaching elders of the churches in this jurisdiction, with the helpe of Thomas Staunton, shall be desired, twise, at least, in every yeare, to goe amongst the neighbouring indians, and indeavour to make knowne to them, the councells of the Lord, and thereby to draw and stirr them up; to direct and order all theire wayes and conversations, according to the rule of his worde; and Mr. Governor, and Mr. Deputy, and the other magistrates, are desired to take care and seé the thinge attended, and with theire owne presence, so farre as may bee convenient, incourage the same.

This courte having duly weighed the joint determination and agreement of the commissioners of the United English colonyes, at New-Haven, of Anno 1646, in reference to the indians, and judging it to bee both according to rules of prudence and righteousnes, doe fully assent thereunto, and order that it bee recorded amongst the acts of this courte, and attended in future practice, as occasions may present and require; The said conclusion is as follows:

The commissioners seriously considering the many willfull wrongs and hostile practices of the indians, against the English, together with theire interteining, protecting and rescuing of offenders, as late our experience sheweth, which, if suffered, the peace of the colonyes cannot bee secured;

It is therefore concluded, that in such case, the magistrates of any of the jurissdictions, may, at the charge of the plaintiff, send some convenient strenght of English, and according to the nature and value of the offence and dammage, seize and bring away any of that plantation of indians that shall interteine, protect or rescue the offendor, though hee should bee in another jurissdiction, when through distance of place, commission or direction cannott bee had, after notice and due warning given them, as actors, or at least, accessary to the injurye and dammage done to the English; onely women and children to bee sparingly seized, unless knowne to bee someway guilty; and because it will be chargeable keeping indians in prison, and if they should escape, they are like to prove more insolent and dan-

gerous after. It was thought fitt, that uppon such seizure, the delinquent, or satisfaction bee again demanded of the Sagamore, or plantation of indians guilty, or accessary, as before; and if it bee denyed, that then the magistrates of this jurissdiction, deliver up the indian seized by the partye or partyes endammaged, either to serve, or to bee shipped out and exchanged for neagers, as the case will justly beare; and though the comissioners foresee, that said severe, though just proceeding may provoke the indians to an unjust seizing of some of ours, yet they could not, at present, find no better means to preserve the peace of the colonyes; all the aforementioned outrages and insolences tending to an open warr; onely they thought fitt, that before any such seizure bee made in any plantation of indians, the ensuing declaration bee published, and a coppye given to the perticular Saggamores.

The commissioners for the United Colnoyes considering how peace with righteousnes may bee preserved betwixt all the English, and the severall plantations of the indians, thought fitt to declare and publish, as they will doe no

injurye to them, so if any indian or indians of what plantation soever, doe any willfull dammage to any of the English colonyes, uppon proofe, they will in a peaceable way, require just satisfaction, according to the nature of the offence and dammage; but if any Saggamore or plantation of indians, after notice and due warninge, interteine, hyde, protect, keepe, convey away, or further the escape of any such offendor or offendors, the English will require satisfaction of such indian and Saggamore, or indian plantation; and if they deny it, they wil right themselves as they may, uppon such as so meinteine them that doe the wrong, keeping peace and all termes of amity and agreement with all other indians

## INKEEPERS.

*Fforasmuch, as there is a necessary use of howses of common interteinement, in every commonwealth, and of such as retaile wine, beare and victualls; yet, because there are so many abuses of that lawful libberty, both by persons interteining, and persons interteined, there is allso need*

*of strict lawes and rules to regulate such an imployment.*

It is thereforc ordered by this Courte and authority thereof, That no person or persons licenced for common interteinment, shall suffer any to bee drunken, or drinke excessively, viz. above halfe a pinte of wyne, for one person, at one time, or to continue tipling above the space of halfe an houre, or at unreasonable times, or after nine of the clock at night, in or about any of theire howses, on penalty of five shillings for every such offence; and every person found drunken, viz. so that hee bee thereby bereaved or dissabled in the use of his understanding, appearing in his speech or gesture, in any of the said howses or elsewhere, shall forfeitt ten shillings; and for excessive drinking, three shillings foure pence; and for continuing above halfe an houre, tipling, two shillings six pence; and for tipling at unseasonable times, or after nine o'clock at night, five shillings, for every offence in these perticulars, being lawfully convicted thereof; and for want of payment, such shall bee im-

prisoned until they pay, or bee sett in the stocks, one houre or more, in some open place, as the weather will permitt, not exceeding three houres at one time; provided, notwithstanding, such licensed persons may interteine seafaring men or land travellers in the night season, when they come first on shoare, or from theire journeye, for theire necessary refreshment, or when they prepare for theire voyage or journye the next day early, so bee no dissorder amongst them; and allso, strangers and other persons, in an orderly way, may continue at such howses of common interteinement during meal times, or uppon lawfull business, what time theire occassions shall require.

And it is allso ordered, That if any person offend in drunkenness, excessive or long drinking, the second time, they shall pay double fynes; and if they fall into the same offence the third time, they shall pay treble fynes and if the parties bee not able to pay theire fynes, then hee that is found drunken shall bee punnished by whipping, to the number of ten stripes; and hee that offends by excessive or long

drinking, shall bee put into the stocks for three hours, when the weather may not hazzard his life or limbs; and if they offend the fourth time, they shall bee imprisoned untill they put in two sufficient sureties for their good behavior.

And it is further ordered, That the severall townes uppon the river, within this jurissdiction, shall provide amongst themselves, in each towne, one sufficient inhabitant, to keepe an ordinary for provision and lodging, in some comfortable manner, that passengers or strangers may know where to resorte; and such inhabitants, as by the severall townes, shall bee chosen for the said service, shall bee presented to two magistrates, that they may judge meete for that imployment; and this to be effected by the severall townes within one month, under the penalty of forty shillings a month, for each month that each towne shall neglect the same.

And it is allso further ordered, That every inkeeper or victuailer shall provide for interteinement of strangers horses, viz. one or more inclosures for summer, and hay and provender for winter, with convenient stable roome

and attendance, under penalty of two shillings six pence for every dayes default and double dammage to the partye thereby wronged, except it bee by inevitable accident.

Lastly, It is ordered by the authority aforesaid, That all constables may, and shall, from time to time, duely make search throughout the limmitts of theire townes, uppon Lords dayes and lecture dayes, in times of exercise; and allso, at all other times, so oft as they shall see cause, for all offences and offendors against this law, in any the perticulars thereof; and if uppon due information or complaint of any of theire inhabitants, or other credible persons whether taverner, victualler, tabler, or other, they shall refuse or neglect to make search as aforesaid, or shall not to theire power, performe all other thinges belonging to theire place or office of constableship, then uppon complaint and due proofe before any one magistrate, within three months after such refusall or neglect, they shall be fyned for every such offence, ten shillings, to bee levied by the marshall, as in other cases, by warrant from such magistrate before whome they are convicted, or warrant

from the Treasurer, uppon notice from such magistrate.

It is ordered by this courte and authority thereof, That no inkeeper, victualer, wine drawer, or other, shall deliver any wyne, nor suffer any to bee delivered out of his howse to any which come for it, unless they bring a note under the hand of some one master of some familye and allowed inhabitant of that towne; neither shall sell or draw any hott water to any but in case of necessitye, and in such moderation for quantity, as they have good grounds to conceive it may not bee abused, and shall bee ready to give an account of theire doings herein, when they are called thereto, under censure of the courte. in case of delinquency.

## INDITEMENTS.

If any person shall bee indicted for any capitall crime, who is not then in durance, and shall refuse to render his person to some magistrate, within one month after three proclamations publiquely made in the town where hee usually abides, there being a month betwixt proclamation and proclamation, his lands and

goods shall bee seized to the use of the common treasury, till hee make his lawful appearance, and such withdrawing of himselfe, shall stand in stead of one wittness to prove his crime, unless he can make it appeare to the courte, that he was necessarily hindred.

## JURYES AND JURORS.

It is ordered by the authority of this courte, That in all cases which are entred, under forty shillings, the sute shall bee left to be tryed by the courte of magistrates, as they shall judge most agreeable to equity and righteousnes; and in all cases that are tryed by juries, it is left to the magistrates to impannell a jury of sixe or twelve, as they shall judge the nature of the case shall require; and if foure of sixe, or eight of twelve agree, the verdict shall bee deemed to all intents and purposes, sufficient and full; uppon which, judgment may bee entred and execution granted, as if they had all concurred; but if it fall out, that there bee not such a concurrence, as is before mentioned, the jurors shall returne the case to the courte with theire reasons, and a speciall verdict is to

be drawne thereupon, and the vote of the greater number of magistrates shall carrye the same, and the judgment to bee entred, and other proceedings as in case of a verdict by a jury.

And it is further ordered, That the courte of magistrates shall have libbertye, (if they do not finde in their judgements the jury to have attended the evidences given in, and true issue of the case in theire verdict) to cause them to returne to a second consideration thereof; and if they still persist in theire former opinion, to the dissatisfaction of the courte, it shall bee in the power of the Courte, to impannell another jurye, and committ the consideration of the case to them: and it is allso left in the power of the courte to varye and alter the dammages given in by any jurye, as they shall judge most equall and righteous; provided, that what alteration shall at any time bee made in that kinde, bee done in open courte, before plaintiff and defendant, or affidavitt made, that they have beene required to bee present; and that alteration which is made, bee done either the same courte, or provision made to secure the verdict of the

jury, untill the case bee fully issued: And whereas many persons, after their severall causes in courte have beene tryed and issued, have slipt away, or otherwise neglected, if not refused, to pay the charges of the courte, according to order, for preventing thereof, for the future, it is ordered, that whosoever shall have any action or sute in Courte after publishing hereof, shall, as soon his cause is issued, pay the whole charges of the courte, that concernes either jury or secretary, before hee departs the same; and the like allso shall bee done by all those whose actions are not taken up and withdrawne before the sitting of the courte wherein they were to be tryed, or otherwise, for neglect or nonperformance of either, bee committed to prison, there to remaine till hee or they have satisfied the same;

## GRAND JURY.

It is ordered and decreed that there shall be a grand jury of twelve or fourteen able men, warned to appear every courte, yearly, in September, or as many and oft as the Governor or courte shall thinke meete, to make presentment

of the breaches of any lawes or orders, or any other missdemeanors they shall know of in this jurissdiction.

## LANDS. FREELANDS.

It is ordered, and by this courte declared, That our lands and heritages, shall be free from all fynes and lycences uppon alienations; and from all harriotts, wardships, liveries, primer seizins, yeare day and waste, escheats and forfeitures, uppon the death of parents or ancestors, bee they naturall, unnaturall, casuall or juditiall, and that forever.

## LEVYES.

*Fforasmuch as the marshalls and other officers, have complained to this courte, that they are often times in great doubt how to demean themselves in the execution of their offices;*

It is ordered by the authority of this courte, That in case of fynes and assessments to bee levyed, and uppon execution, in civill actions, the officer shall demand the same of the party, or at his howse and place of usuall aboade, and

uppon refusall or nonpayment, hee shall have power of calling the constable, if hee see cause for his assistance, to breake open the dore of any howse, chest, or place, where hee shall have notice that any goods lyable to such levye or execution, shall bee; and if hee bee to take the person, hee may doe the like, if uppon demaund, hee shall refuse to render himselfe; and whatsoever charges the officer shall necessarily bee put unto uppon any such occassion, hee shall have power to levye the same, as hee doth the debt, fyne or execution; and if the officer shall levye any such goods uppon execution, as cannot bee conveyed to the place where the party dwells, for whome such execution shall bee levyed, without considerable charge, hee shall levye the said charge allso with the execution; the like order shall bee observed in levying of fynes, provided, it shall not bee lawfull for such officer to levye any mans necessary bedding, apparrell, tooles or armes, neither implements of household, which are for the necessary upholding of his life; but in such case, hee shall leveye his land or person, according to law; and in no case, shall the

officer bee put to seeke out any mans estate further then his place of aboade; but if the party will not discover his goods or land, the officer may take his person.

And it is allso ordered and declared, That if any officer shall doe injurye to any, by colour of his office, in these, or any other cases, hee shall bee lyable, uppon complaint of the party wronged, by action or information, to make full restitution.—See *Marshall.*

## LYINGE.

*Whereas truth in words, as well as in actions, is required of all men, especially, of christians, who are the professed servants of the Lord of truth; and whereas, all lying is contrary to truth, and some sortes of lyes are not only sinfull, as all lyes are, but allso, pernicious to the publique weal and injurious to perticular persons:*

It is therefore ordered by this courte, and authority thereof, That every person of the age of discretion, which is accounted fourteene yeares, who shall wittingly and willingly, make

or publish any lye, which may bee pernicious to the publique weal, or tending to the dammage or injury of any perticular person, to deceive and abuse the people with false news or reportes, and the same duly prooved in any courte, or before any one magistrate, who hath hereby power graunted, to heare and determine all offences against this lawe, such persons shall bee fyned for the first offence, ten shillings, or if the party bee unable to pay the same, then to bee sett in the stocks so long as the said courte or magistrate shall appointe, in some open place, not exceeding three houres; for the second offence in that kinde, whereof any shall bee legally convicted, the summe of twenty shillings, or be whipped uppon the naked body, not exceeding twenty stripes, and for the third offence that way, forty shillings, or if the party bee unable to pay, then to bee whipped with more stripes, not exceeding thirtye; and if yett, any shall offend in like kinde, and bee legally convicted thereof, such person, male or female, shall bee fyned ten shillings at a time, more then formerly, or if the party so offending, bee unable to pay, then to be whipped with

five or six stripes more then formerly, not exceeding forty at any time: And for all such as being under age of discretion, that shall offend in lyinge contrary to this order, theire parents or masters shall give them due correction, and that in the presence of some officer, if any magistrate shall so appointe; provided allso, that no person shall bee barred of his just action of slander, or otherwise, by any proceeding uppon this order.

## MASTERS, SERVANTS, SOJOURNERS.

It is ordered by this courte and authority thereof, That no master of a familye shall give interteinment or habitation to any younge man to sojourne in his familye, but by the allowance of the inhabitants of the towne where he dwells, under the penalty of twenty shillings per week; And it is allso ordered, That no young man that is neither married, nor hath any servant, nor is a publique officer, shall keepe howse by himselfe, without the consent of the towne, for, and under paine or penalty of twenty shillings a week.

It is allso ordered by the authority aforesaid,

That no servant, either man or maid, shall either give, sell or truck, any commodity whatsoever, without license from theire master, during the time of theire service, under paine of fyne or corporall punnishment, at the discretion of the Courte, as the offence shall deserve; and that all workmen shall work the whole day, allowing convenient time for food and rest.

It is allso ordered, That when any servants shall runn from theire masters, or any other inhabitants shall privately goe away with suspicion of ill intentions, it shall bee lawfull for the next magistrate, or the constable and two of the cheifest inhabitants, where no magistrate is, to press men and boates or pinnaces, at the publique charge, to pursue such persons by sea or land, and bring them back by force of armes.

*And whereas many stubborne, refractory and discontented servants and apprentices, withdraw themselves from theire masters services, to improve their time to theire owne advantage, for the preventing whereof,*

It is ordered, That whatsoever servant or

apprentice shall hereafter offend in that kinde, before their covenants or terme of service are expired, shall serve theire said masters, as they shall be apprehended or retained, the treble term, or three fold time of theire absence in such kinde.

## MANSLAUGHTER.

It is ordered by this court and authority thereof, That if any person in the just and necessary defence of his life, or the life of any other, shall kill any person attempting to rob or murther in the feilds or higheway, or to breake into any dwelling howse, if hee conceive hee cannot with safety of his owne person, otherwise take the ffellon, or assailant, and bring him to tryall, he shall be houlden blameless.

## MAGISTRATES.

*This courte being sensible of the great dissorders growing in this commonwealth, through the contempts cast uppon the civill authority which willing to prevent,*

Doe order and decree, That whosoever shall

henceforth, openly or willingly, defame any courte of justice, or the sentences and proceedings of the same, or any of the magistrates or judges of any such courte, in respect of any act or sentence therein passed, and being thereof lawfully convicted in any generall courte, or courte of magistrates, shall bee punnished for the same, by fyne, imprisonment, disfranchisement, or bannishment, as the quality and measure of the offence shall deserve.

## MARRIAGE.

*ffforasmuch as many persons intangle themselves with rashe and inconsiderate contracts for theire future joininge in marriage covenant, to the great trouble and greife of themselves and theire ffriends, for the preventing thereof,*

It is ordered by the authority of this courte, That whosoever intends to joine themselves in marriage covenant, shall cause theire purpose of contract to bee published in some publique place, and at some publique meeting, in the severall townes where such persons dwell, at the least, eight dayes before they enter into

such contract, whereby they engage themselves each to other; and that they shall forbeare to joine in marriage covenant, at least eight days after the said contract.

And it is allso ordered and declared, That no person whatsoever, male or female, not being at his or her owne dispose, or that remaineth under the government of parents, masters or guardians, or such like, shall either make or give interteinment to any motion or sute, in way of marriage, without the knowledge and consent of those they stand in such relation to, under the severe censure of the courte, in case of delinquency not attending this order; nor shall any third persons intermeddle in making any motion to any such, without the knowledge and consent of those under whose government they are, under the same penalty. *Marriages* and *Births.*—See *Records.**

* This prohibition in regard to the marriage of minors was a very judicious one. The Roman Civil Law recognized its propriety, and enacted that the want of the consent of the *pater-familias* was one of the legitimate *impedimenta* to the nuptial bond. *Digesta Justin.* XXIII., 2, 3.—S. M. S.

## MARSHALL.

It is ordered by this courte, That the marshall shall bee allowed for every execution hee serves, which is under the summe of five pounds, two shillings six pence, and four pence for every myle hee goes to serve the said execution, out of the towne where he liveth; and for every execution hee serves, of, or above five pounds, and under the summe of ten pounds, hee shall bee allowed three shillings foure pence, and foure pence for every myle, as before; and for every execution hee serves, of, or above the summe of ten pounds, hee shall bee allowed five shillings, and four pence for every myle, as before; Allso, hee is to bee allowed his other just and necessary charges; onely it is provided, that if hee bee excessive therein, uppon due complaint and proofe made, it shall be redressed.

And it is allso further ordered, That the marshall shall bee allowed for every attachement hee serves, halfe so much as is before allowed him for executions; onely hee is to have four pence for every myle he goes to serve the attachement, as before.

It is further ordered by this courte and authority thereof, That every officer that shall, at any time bee fyned for the breach of any pœnall lawe, or other just cause, such person or persons so offending, shall forthwith pay his or theire fyne or penalty, or give in security speedily to do it, or else shall bee imprisoned, or kept to worke till it bee paid, that no loss may bee to the commonwealth; and what other fynes or debts are already due, or shall bee due to the country, the marshall, for the time being, uppon warrant from the Treasurer, and according to his oath, shall bee faithfull in doing the duty of his place in levyinge and returning the same, uppon paine of forfeiting two shillings of his owne estate, for every pound, or else such fyne as any courte of justice shall impose on him for his neglect.

## MEASURES AND WEIGHTS.

*Fforasmuch as it is observed, that there are diversitys of weights, yardes and measures amongst us, whereby dammages many times ensueth by commerce with severall persons, for the preventing whereof,*

It is now ordered, That no man within these libberties, shall, after the publishing of this order, sell any commodityes, but by sealed weight or measure, under the penalty of twelve pence each default; the clarke is to have a penny for sealing a weight or measure each time; and no weight or measure is to be accounted authentick that is not sealed or approved by the Clark once every yeare, and the said clark is to break or demolish such weights, yardes or measures as are defective.

## MILLITARY AFFAIRES.

It is ordered, and by this courte declared, That all persons that are above the age of sixteene yeares, except magistrates and church officers, shall beare arms, unless they have, uppon just occassion, exemption graunted by the courte: and every male person within this jurissdiction, above the said age, shall have in continuall readines, a good muskitt or other gunn, fitt for service, and allowed by the clark of the band, with a sword, rest and bandaleers, or other serviceable provision in the roome

thercof, where such cannott bee had; as allso such other millitary provision of powder, match and bullitts as the lawe requires; and if any person who is to provide armes or ammunition, cannot purchase them by such means as he hath, hee shall bring to the clark so much corne or other merchantable goods, as by apprizement of the said clark and two others of the company, (whereof one to bee chosen by the party and the other by the clarke,) as shall be judged of a greater value by a fifth parte, then such armes or ammunition is of, hee shall bee excused of the penalty for the want of armes, (but not for want of appearance) untill hee bee provided; and the clark shall indeavour to furnish him so soon as may bee, by sale of such goods so deposited, rendering the overplus to the partye; But if any person shall not bee able to provide himselfe armes or ammunition through meere poverty, if hee bee single, hee shall bee put to service by some magistrate, and the constable shall appoint him armes and ammunition, and shall appointe him where, and with whome to earne it out.

And it is ordered, That all the souldgers

within this jurissdiction shall bee trained, at least, six times yearely, in the months of March, Aprill, May, September, October, or November, by the appointment of the captaine or cheife officer in the severall townes: and the times of theire meeting together shall bee at eight of the clock in the morninge: And the clarke of each band, shall twise every yeare, at least, view the armes and ammunition of the band, to see if they bee all accordinge to lawe; and shall uppon every traininge day, give his attendance in the feild every day, (except hee hath speciall leave from his captaine or cheife officer,) to call over the rolle of the souldgers, and take notice of any defect by theire absence or otherwise; And hee shall duely present to the Governor, or some of the magistrates, all defects in armes or ammunition, at least once in each yeare, and oftener, if it bee required. And it is left to the judgement of the magistrates to punish all defects in that kinde, according to the nature of the offence, wherein due regard is to bee had of willfull neglects in any, that such may not pass without a severe censure: And whosoever shall bee absent any

of the days appointed for traininge, after the houre appointed, or shall not continue the whole time, shall forfeitt the summe of two shillings six pence, for every default, except such as are licensed under the hand of two magistrates; The clark of the severall bands are to distreine the delinquents within fourteene days after the forfeiture, whereof six pence shall bee to himselfe, and the remainder for the maintenance of drums, cullers, &c. And if any of the said clarks shall omitte to distreine any delinquents above the said terme of fourteene dayes, hee shall forfeitt and pay to the use of the publique, double the fyne so neglected by him.

It is ordered, That the souldgers shall onely make choyce of theire millitary officers, and present them to the perticular courte; but such onely shall bee deemed officers, as the courte shall confirme.

The state and condition of the place where we live, by reason of the indians and otherwise, requires all due means to bee used for the preservation, the safety and peace of the same; this courte judgeth it necessary that there should bee a magazine of powder and shott pro-

vided and meinteined in the country in each towne within this jurissdiction, And do therefore order and decree, that there shall bee two barrills of powder, and six hundred weight of lead provided by this commonwealth, before the generall courte in September next, which shall be meinteined and continued and accounted as the country stock.

And it is allso further ordered, that the severall townes in this jurissdiction shall provide and meinteine as followeth, viz.

Wyndsor, one barrill and halfe of powder, foure hundred and fifty pound of lead, one hundred fathom of match, and nine cotton coates or corseletts, and serviceable pikes to either of them.

Hartford, two barrills of powder, six hundred weight of lead, and six score fathom of match, and twenty cotton coates or corseletts, with serviceable pikes to either of them.

Weathersfeild, one barrill of powder, three hundred weight of lead, eighty fathom of match, and eight cotton coates or corseletts, with serviceable pikes to either of them.

Seabrook, halfe a barrill of powder, one

hundred and fifty pound of lead, forty fathom of match, and three cotton coates or corseletts, with serviceable pikes to either of them.

ffarmington, the same, in each perticular with Seabrook.

ffairefeild and Strattford, in each towne, one barrill of powder, three hundred weight of lead, one hundred fathom of match, and six coates of corseletts, with serviceable pikes to either of them.

Southhampton and Pequett, in each towne, halfe barrill of powder, one hundred and fifty pounds of lead, forty fathom of match, with three cotton coates or corseletts, with serviceable pikes to either of them. Each towne allso, shall provide so many firelocke muskitts, and good backswords or cutlasses, as the corseletts are they are charged with by this order: All which shall be provided by the severall townes, by the courte in September next, ard meinteined constantly for the future, uppon the penalty of ten shillings per month, for each townes defect or neglect herein.

Allso, it is further ordered, That every male person within this jurissdiction, that is above

the age of sixteene yeares, whether magistrates, ministers, or any other (though exempted from training, watching and warding) shall bee always provided with, and have in readiness, by them, halfe a pound of powder, two pound of serviceable bullitts, or shott, and two fathom of match to every matchlock, uppon the penalty of five shillings a month, for each persons default herein; provided notwithstanding, that if the proportions of powder laid uppon each towne and person, either doth not at present, or shall not, by reason of the increase of theire numbers, for the future, amount in all to three pound of powder for every souldger, then each towne shall, uppon the former penalty, provide so much more, as shall bee three pound of powder for a souldger, and other provision of lead, &c. increase in each towne, according to the same proportion.

*Whereas many inconveniences doe appeare by reason that the severall souldgers, of the trained bands in each towne within this jurissdiction, have not been allowed some powder uppon*

*theire training dayes, for theire practice and exercise in theire severall firings :*

It is ordered by the authority of this courte, That there shall bee allowed to every souldger in the severall trained bands in each towne, as aforesaid, halfe a pound of power a piece, for a yeare, and so from yeare to yeare, for the future, to bee provided by, and at, the propper costs and charges of the masters and governors of each family unto which the said souldgers doe belong, to bee called forth, improved and disposed of, at the discretion of the captaine, or other principall leaders in each trained bands.

It is allso ordered, that the captaines, leiftennants and ensignes, shall bee freed from watching and warding, and the Serjeants from warding and halfe theire watch.

## MINISTERS MEINTENANCE.

Whereas the most considerable persons in the land came into these partes of America, that they might enjoye Christe, in his ordinances, without disturbance; and whereas, amongst many other pretious meanes, the ordi-

nances have beene, and are dispensed amongst us, with much purity and power, they tooke it into their serious consideration, that a due meintenance according to God, might bee provided and settled, both for the present and future, for the incouragement of the ministers worke therein; and doe order, that those who are taught in the word, in the severall plantations, bee called together, that every man voluntarily sett downe what hee is willing to allow to that end and use; and if any man refuse to pay a meete proportion, that then hee bee rated by authority, in some just and equall way; and if after this, any man withhold or delay due payment, the civill power to be exercised as in other just debts.

## OATHS.

I A. W. now chosen to be Governor within this jurissdiction, for this yeare ensuing, and until a new bee chosen, doe sweare by the great and dreadfull name of the everlasting God, to promoate the publique good and peace of the same, according to the best of my skill; as allso, will meinteine the lawfull priviledges of

this commonwealth; as allso, that all wholesome lawes, that are or shall bee made by lawfull authority, here established, bee duly executed, and will further the execution of justice according to the rule of Gods word; so helpe mee God, in the name of the Lord Jesus Christe.

I N. W, being chosen a magistrate within this jurissdiction, for the yeare ensuing, do sweare, by the great and dreadfull name of the everlasting God, to promoate the publique good and peace of the same, according to the best of my skill; and allso, that I will meinteine all the lawfull priviledges thereof, according to my understanding, as allso, to assiste in the execution of all such wholesome lawes as are made, or shall be made by lawfull authority, here established, and further the execution of justice for the time aforesaid, according to the righteous rule of Gods worde: So help me God.

I A. B. doe sweare by the great and dreadfull name of the everliving God, that for the yeare ensuing, and untill a new bee chosen, I will faithfully execute the place and office of a constable, for, and within, the plantation of W.

and the limitts thereof; and that I will indeavour to preserve the publique peace of the saide place and commonwealth, and will doe my best indeavour to see all watches and wardes executed, and to obey and execute all lawfull commands or warrants that come from any magistrate, magistrates or courte; so helpe mee God, in the Lord Jesus Christe.

I A. B. being by the providence of God, an inhabitant within the jurissdiction of Connecticutt, being to bee made free, doe acknowledge myselfe to bee subject to the governement thereof, and doe sweare by the great and fearfull name of the everliving God, to bee true and faithfull unto the same, and doe submitt both my person and estate thereunto, according to all the wholesome lawes and orders that there are or hereafter shall bee there made and established by lawfull authority; and that I will neither plott nor practice any evill against the same, nor consent to any that shall so doe, but will timely disscover the same to lawfull authority there established; and that I will, as in duty I am bound, meinteine the honor of the same, and of the lawful magistrates thereof, pro-

moating the publique good of it, whilst I shall so continue an inhabitant there; and whensoever I shall give my voate or suffrage touching any matter which concerns this commonwealth, being called thereunto, will give it as in my conscience I shall judge may conduce to the best good of the same, without respect of persons, or favour of any man: So helpe me God, in our Lord Jesus Christe.

You swear, that you, A. B. shall duely try the cause or causes now to bee given you in charge, between the plaintiff and defendant, or plaintiffs and defendants, according to your evidence given in courte, and accordingly, a true verdict give; your owne counsells and your fellowes, you shall duely keepe, you shall speake nothing to any one of the buisiness and matters in hand, but among yourselves, nor shall you suffer any to speake unto you about the same, but in courte, and when you are agreed of any verdict, you shall keepe it secreet, till you deliver it up in courte: So helpe you God, in our Lord Jesus Christe.

You doe sweare by the great and dreadfull name of the everlasting God, that for this

yeare ensuing, and untill new bee chosen, you shall faithfully execute the place and office you are chosen unto, according to the extent of your commission: So helpe you God in the name of the Lord Jesus Christe. (Note—The preceding form of oath was prescribed for commissioners.)

A. B. you being chosen secretary for this jurissdiction, during this yeare, doe sweare by the great name of God, that you shall keepe the secreets of the courte, and shall carefully execute the place of a secretary, and shall truly and faithfully record all orders of the courte, and shall deliver true copies and certificates when they shall bee necessarily required: So helpe you God, in our Lord Jesus Christe.

You doe sweare by the great and dreadfull name of God, that you will with all due care and faithfullnes, make presentment according to order, at the quarter courte in September next, such misdemeanors and transgressions of the lawes and orders of this commonwealth, as shall come to your cognisance, as allso, to doe your indeavours to finde out such things as are contrary to religion and peace: So helpe you

God, in our Lord Jesus Christe. (Note—This form of oath was prescribed for Grand-jurors.)

## PEAGE.

It is ordered by this courte and decreed, That no peage, white or black, bee paid or received, but what is strunge, and in some measure, strunge sutably, and not small and great, uncomely and disorderly mixt, as formerly it hath beene.

## POORE.

It is ordered by this courte and authority thereof, That the courte of magistrates shall have power to determine all differences about lawfull settling, and providing for pore persons, and shall have power to dispose of all unsetled persons, into such townes as they shall judge to bee most fitt, for the maintenance and imployment of such persons and familyes, for the ease of the countrye.

## POUND, POUND-BREACH.

*Efor prevention and due recompence of dam-*

*mage in cornefeilds and other inclosures, done by swyne and cattle:*

It is ordered by this Courte and Authority thereof, that there shall bee one sufficient pound, or more, made and meinteined in every towne and village within this jurissdiction, for the impounding of all such swyne and cattle as shall bee found in any cornefeild, or other inclosure; and whosoever impounds any swyne or cattle, shall give present notice to the owners, if hee bee knowne, or otherwise, they shall be cryed at the two next lectures or markitts; and if swyne or cattle escape out of the pound, the owner, if knowne, shall pay all dammages according to lawe.

*And whereas impounding of cattle, in case of tresspasses, hath beene alwayes found both needfull and proffitable, and all the breaches about the same, very offensive and injurious:*

It is therefore ordered by this Courte and authority thereof, That if any person shall resiste or rescue any cattle going to the pound, or shall, by any way or meanes, convey them out of pound, or custody of the lawe, whereby

the party wronged, may lose his dammage, and the lawe bee deluded, that in case of meere rrescues, the party offending, shall forfeitt to the treasure, forty shillings; and in case of pound breach, five pounds, and shall allso, pay all dammages to the party wronged; and if in the rescue, any bodily harmes bee done to the person of any man, or other, they shall have remedye against the rescuers; and if either bee done by any not of abilitye to answer the dammage and forfeitt aforesaid, they shall bee bodily whipped by warrant from any magistrate before whome the offender is convicted, in the towne or plantation where the offence was committed, not exceeding twenty stripes for the meere rescues or pound breach, and for all dammages to the party, they shall satisfie by service, as in case of theft; and if it appear, there were any procurement of the owner of the cattle, thereunto, and that they were abettors, they shall all pay forfeitures and dammages, as if themselves had done it.

## PROFANE SWEARING.

It is ordered and by this Courte decreed, That

if any person within this jurissdiction shall sweare rashly and vainely, either by the holy name of God, or any other oath, and shall sinfully and wickedly curse any, hee shall forfeitt to the common treasure, for every such severe offence, ten shillings: And it shall bee in the power of any magistrate, by warrant to the constable, to call such persons before him, and uppon just proofe to pass a sentence, and levye the said penalty, according to the usual order of justice; and if such persons bee not able, or shall utterly refuse to pay the aforesaid fyne, hee shall bee committed to the stocks, there to continue, not exceeding three hours, and not less than one houre.*

## RATES.

It is ordered by this Courte and authority thereof, That every inhabitant shall henceforth

* In this article the Puritans exhibited a degree of lenity unusual in that age. The English statutes inflicted a severer penalty for this offense; and by the Statute III. James I. c. 21, any irreverent allusion to the Deity or to the Trinity in a play-house, was punished by the enormous fine of ten pounds.

contribute to all charges, both in church and commonwealth, whereof, hee doth or may receive benefitt; and every such inhabitant who shall not voluntarily contribute proportionably to his ability with the rest of the same towne, to all common charges, both civill and eccleseasticall, shall be compelled thereunto by assessments and distress, to be levyed by the constable or other officer of the towne, as in other cases; and that the lands and estates of all men, whereever they dwell, shall be rated for all towne charges, both civill and eclesiasticall, as aforesaid, where the lands and estates shall lye, and theire persons where they dwell.

*Ffor a more equall and ready way of raising meanes of defraying of publique charges in time to come, and for preventing such inconveniences as have fallen out uppon former assessments;*

It is ordered and enacted by the authority of this Courte, that the treasurer for the time being, shall from yeare to yeare, in the first month, without expecting any other order, send forth his warrant to the constables of every towne within this jurissdiction, requiring the

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constable to call together the inhabitants of the towne, whoe being so assembled, shall chuse three or four of theire able inhabitants whereof, one to bee a commissioner for the towne, who shall some time or times in the sixth month then next ensuing, make a list of all the male persons in the same towne, from sixteene yeares old and upwards, and a true estimation of all personall and reall estates being, or reputed to bee, the estate of all and every the persons in the same towne, or otherwise under theire custody or managing, according to just valuation, and to what persons the same belong, whether in theire owne towne or otherwhere, as neare as they can, by all lawfull wayes and meanes, which they may use, viz. of howses, lands of all sortes, as well unbroken up as other, except such as doth or shall lye common for free food of cattle to the use of the inhabitants in generall, whether belonging to townes or perticular persons, but not to be kept or hearded uppon it to the dammage of the proprietors, mills, shipps, and all small vessells, merchantable goods, cranes, wharfes, and all sortes of cattle, and all other knowne estate

whatsoever; as allso, all visible estate, either at sea or on shoare; all which persons and estates, are by the said commissioners and select men, to bee assessed and rated, as here followeth, viz. every person aforesaid, except magistrates and elders of the churches, two shillings sixpence by the head, and all estates both reall and personall, at one penny for every twenty shillings, according to the rates of cattle hereafter mentioned; and for a more certaine rule in rating of cattle, every cowe of foure yeare old and upward, shall be valued at five pounds, every heifer and steare between three and foure yeare old, foure pounds, and between two and three yeare old fifty shillings; and between one and two yeare old, thirty shillings; every oxe and bull of foure yeare old and upwards, six pounds; every horse and mare of foure yeare old and upwards, twelve pound, of three yeare old eight pounds, betweene two and three yeares old, five pounds, of one yeare old, three pounds; every sheepe of one yeare old thirty shillings; every goate above one yeare old eight shillings; every swyne above one yeare old, twenty shillings; and all cattle of all sortes

under a yeare old, are hereby exempted; as allso all hay and corne in the husbandmans hand, because all meadow, earable ground, and cattle are rateable as aforesaid. And for all such persons as by the advantage of theire artes and trades are more able to helpe beare the publique charge, then common labourers, and workmen, as butchers, bakers, bruers, victuailers, smiths, carpenters taylors, shoemakers, joiners, barbers, millers and masons, with all other manuall persons and artists, such are to be rated for theire returnes and gaines proportionably unto other men for the produce of theire estates; provided, that in the rate by the polls, such persons as are disabled by sickness, lameness, or other infirmities, shall be exempted; and for such servants and children as take not wages, theire parents and masters and masters shall pay for them, but such as take wages shall pay for themselves.

And it is further ordered, That the commissioners for the severall townes uppon this river, shall yearely meet uppon the third Thursday in the sixth month at Hartford; and the commissioners for the townes of Ffairfeild and

Strattford, shall meett the same day in one of those townes, and bring with them, fairly written, the just number of males listed as aforesaid, the assessment of estates made in theire severall townes, according to the rules and directions in this present order expressed. And the said commissioners being so assembled, shall duely and carefully examine all the said lists and assessments of the severall townes, and shall correct and perfect the same, according to the true intent of this order, and the same so perfected, they shall transmitt under theire hands, to the generall courte, the second Thursday in September, and then directions shall bee given to the Treasurer for gathering of the said rate, and every one shall pay theire rate to the constable of the towne where it shall bee assessed; nor shall any land or estate bee rated in any other towne, but where the same shall lye, is or was improved to the owners, reputed owners, or other proprietors use or behoofe, if it bee within this jurissdiction. And for all peculiars, viz. Such places as are not yet laid within the bounds of any towne, the same land, with the persons and estates

thereuppon, shall be assessed, by the rates of the towne next unto it, and the measure or estimation, shall be by the distance of the meeting howses; and if any of the said commissioners, or of the selectmen, shall willingly faile or neglect to performe the trust committed to them by this order, in not making, correcting, perfecting or transmitting any of the said lists or assessments, according to the intent of this order, every such offender shall bee fyned forty shillings for every such offence, or so much as the country shall bee damnified thereby, so as it exceeds not forty shillings for one offence; provided, that such offence or offences bee complained of and prosecuted in due course of law, within six months.

And it is further ordered, That uppon all distresses to bee taken for any of the rates and assessments aforesaid, the officer shall distreine goods or cattle, if they may bee had; and if no goods, then lands or howses, and if neither goods nor lands can bee had within the towne where such distresses are to bee taken, then uppon such returnes to the treasurer, he shall give warrants to attache the body of such per-

sons to bee carried to prison, there to bee kept till the next courte, except they put in security for theire appearance there, or that payment bee made in the meane time.

And it is further ordered that the prises of all sortes of corne to bee received uppon any rate by virtue of this order, shall bee such as the courte shall sett from yeare to yeare, and in default thereof they shall be accepted at the price current, to bee judged by the said commissioners.

And it is further ordered, That all estates of land in England, shall not be rated in publique assessment.

It is allso provided and ordered, That all towne rates shall bee made after the same manner, and by the same rule, as the country rate.

*Whereas much wrong hath beene done to the country, by the negligence of constables in not gathering such levyes as they have received warrants from the Treasurer, during theire office:*

It is therefore ordered, That if any constable shall not have gathered the levyes committed

to his charge by the Treasurer then being, during the time of his office, that he shall notwithstanding expiration of his office, have power to levye by distress, all such rates and levyes; and if he bring them not in to the old treasurer, according to his warrants, the Treasurer shall distreine such constables goods for the same; and if the Treasurer shall not so distreine the constable, hee shall bee answerable to the country for the same; and if the constable bee not able to make payment, it shall bee lawfull for the Treasurer, old or new respectively, to distreine any man or men of that towne where the constables are unable for all arrearages of levyes, and that man or men, uppon petition to the Generall courte, shall have order to collect the same againe, equally of the towne, with his just dammages for the same.

It is further ordered by this Courte, That all collectors and gatherers of rates, shall appoint a day and place, and give reasonable warning to the inhabitants to bring in theire proportions, uppon which, every man so warned, shall duely attend to bring in his rate, or

uppon neglect thereof, shall forfeitt two pence in the shilling for what hee falls shorte, and the said collector shall have authority hereby to distreine the delinquents, or bee accountable themselves for the rates and penalties so neglected by them.

## RECORDS.

It is ordered by this courte, and authority thereof, That the towne clark or register in the severall townes of this jurissdiction shall record, all births and deaths of persons in theire towne, and that all parents, masters of servants, executors and administrators respectively, shall bring into the register of theire severall townes, the names of such persons belonging to them or any of them, as shall either bee borne or dye; and allso, that every new married man shall likewise bring in a certificate of his marriage, under the hand of the magistrate which married him, to the said register, and for each neglect, the person to whome it doth belong, shall forfeitt as followeth, viz. If any person shall neglect to bring in a noate or certificate as aforesaid, together with three pence a name,

to the said register, for all births and deaths, and six pence for each marriage to bee recorded, more then one month after such birth, death or marriage, shall forfeitt for every default, five shillings, and the penalty further increased, uppon longer neglect, according to the judgement of the courte; and the register of each towne shall yearely, convey to the Secretary of courte, a true transcript of the births, deaths and marriages given under theire hands, with a third parte of the aforementioned fees, under the penalty of forty shillings for every such neglect, all which forfeitures shall bee returned into the Treasury; allso, the grand-jurors may present all neglects of this order.

It is orderded by the authority aforesaid, That the severall townes within this jurissdiction, shall each of them provide a ledger booke, with an index or alphabett unto the same, allso shall chuse one whoe shall bee a towne clerke or register, whoe shall before the Generall courte in September next, record every man's howse and lands already graunted and measured out to him, with the bounds and quantity of the same; and whosoever shall

neglect three months after notice given, to bring into the said towne clerke or register, a noate of his howse and land, with the bounds and quantity of the same, by the nearest estimation, shall forfeitt ten shillings; and so ten shillings a month, for every month hee shall so neglect; the like to bee done for all lands hereafter graunted and measured to any; and if any such granter, being required by the grantee, his heirs or assigns, to make an acknowledgment of any graunt, sale, bargaine or morgage by him made, shall refuse so to do, it shall bee in the power of any magistrate, to send for the partye so refusing, and commit him to prison without bayle or maineprise, untill he shall acknowledge the same: And the grantee is to enter his caution with the recorder, and this shall save his interest in the meane time; and all bargaines or morgages of lands whatsoever, shall bee accounted of no value untill they bee recorded: for which entry the register shall receive six pence for every parcell, delivering every owner a copy of the same under his hand; whereof, foure pence shall bee for himselfe, and two pence for the secretary of the

courte. And the said register shall, every Generall courte, in May and September, deliver unto the same, a transcript, fairely written, of all such graunts, bargaines or ingagements, recorded by him in the towne booke; and the secretary of the courte, shall record it in a booke fairely written, provided for that purpose, and shall preserve the coppy brought in under the hand of the towne clarke; Allso, the said towne clarke shall have for every search of a parcell, one penny, and for every copy of a parcell, two pence, and a copy of the same under the hand of the said register, or towne clarke, and two of the men chosen to governe the towne, shall bee a sufficient evidence to all that have the same.

Ffor the better keeping in minde those passages of God's providence, which have beene remarkable, since our first undertaking of these plantations; Mr. Deputy, Capt. Mason, Mr. Stone with Mr. Goodwyn, are desired to take the paines severally, in theire severall townes, and then jointly together, to gather up the same, and deliver them into the Generall courte in September next, and if it bee judged

then fitt, they may bee recorded: and for future times, whatsoever remarkable passages shall bee, and if they bee publique, the said parties are desired to deliver in the same to the Generall courte; but if any perticular person doe bring in any thinge, hee shall bring it under the hands of two of the aforementioned parties, that it is true, then present it to the Generall courte, that if it bee there judged requisitt, it may bee recorded; provided that any Generall courte, for the future, may alter any of the parties before mentioned, or add to them, as they shall judge meett.

It is allso ordered by this courte, and decreed, That after the death and decease of any person possessed of any estate, bee it more or less, and whoe maketh a will in writing, or by word of mouth, those men which are appointed to order the affaires of the towne, where any such person deceaseth, shall within one month after the same, at furthest, cause a true inventory to bee taken of the said estate, in writing, as allso, take a copy of the said will or testament, and enter it into a booke, or keepe the coppy in safe custody; as allso. enter the names uppon

record, of the children, and legatees of the testator or deceased person: And the said orderers of the affaires of the towne, are to see every such will and inventory, to bee exhibited in the publique courte, within one quarter of a yeare, where the same is to be registered: And the said orderers of the affaires of the towne, shall doe theire indeavors in seeing that the estate of the testator bee not wasted nor spoiled, but improved for the best advantage of the children or legatees of the testator, according to the minde of the testator, for theire, and every of theire use, and theire and every of theire allowance and approbation; But where any person dyeth intestate, the said orderers of the affaires of the towne, shall cause an inventory to bee taken, and then the publique courte may graunt the administration of the goods and chattles to the next of kinn, jointly and severally, and devide the estate to wife, (if any bee) children or kindred, as in equity they shall see meett. And if no kindred bee found, the courte to administer for the publique good of the common; provided there bee an inventory registered, that if any of the kindred, in

future time appeare, they may have justice and equity done unto them. And all charges that the publique courte, or the orderers of the affaires of the towne are at, about the trust committed to them, either for writing or otherwise, to bee paid out of the estate.

Whereas allso it was recomended by the commissioners, that for the more free and speedy passage of justice in each jurissdiction, to all the confederates, if the last will and testament of any person, bee duely prooved in, and duely certified from any one of the colonyes, it bee without delay, accepted and allowed in the rest of the colonyes, unless some just exception bee made against such will, or the prooving of it; which exception to bee duely forthwith duely certified back to the colony where the said will was prooved, that some just course may bee taken to gather in and dispose the estate without delay or dammage; And allso, that if any knowne planters or settled inhabitants, dye intestate, administration bee graunted by that colony unto which the deceased belong, though dying in another colony: And the administration being duely certified to, bee of force for

the gathering in of the estate, in the rest of the colonyes, as in the case of wills prooved, where no just exception is returned: But if any person possessed of an estate, whoe is neither planter, nor settled inhabitant in any of the colonyes, dye intestate, the administration (if just cause bee found to give administration) bee graunted by that colony where the person shall dye and departe this life, and that care bee taken by that governement, to gather in and secure the estate, untill it bee demaunded, and may bee delivered according to rules of justice; which uppon due consideration, was confirmed by this courte, in the behalfe of this colonye, and ordered to bee attended in all such occassions, for the future; provided, the Generall courtes of the other colonyes, yeild the like assent thereunto.

## SCHOOLES.

*It being one cheife project of that old deluder, Sathan, to keepe men from the knowledge of the scriptures, as in former times, keeping them in an unknowne tongue, so in these latter times, by perswading them from the use of tongues, so*

*that at least, the true sence and meaning of the originall might bee clouded with false glosses of saint seeming deceivers; and that learning may not bee buried in the grave of our forefathers, in church and commonwealth, the Lord assisting our indeavors;*

It is therefore ordered by this courte and authority thereof, That every towneshipp within this jurissdiction, after the Lord hath increased them to the number of fifty howshoulders, shall then forthwith appointe one within theire towne, to teach all such children, as shall resorte to him, to write and read, whose wages shall bee paid, either by the parents or masters of such children, or by the inhabitants in generall, by way of supplye, as the major parte of those who order the prudentialls of the towne, shall appointe; provided, that those who send theire children, bee not oppressed by paying much more then they can have them taught for, in other townes.

And it is further ordered, That where any towne shall increase to the number of one hundred families or howshoulders, they shall sett

up a grammar schoole, the masters thereof, being able to instruct youths, so farr as they may bee fitted for the university, and if any towne neglect the performance hereof, above one yeare, then every such towne shall pay five pounds per annum, to the next such schoole, till they shall performe this order.

The propositions concerning the meintenance of schollars at Cambridge, made by the commissioners, is confirmed.

And it is ordered, That two men shall bee appointed in every towne within this jurissdiction, whoe shall demand what every familye will give, and the same to be gathered and brought into some roome, in March; and this to continue yearely, as it shall bee considered by the comissioners.

## SECRETARY.

It is ordered and decreed, That within twenty dayes after the session of every Generall courte, the secretary thereof, shall send forth copies of such lawes and orders as are or shall bee made, at either of them, which are of generall concernement for the governement of this com-

monwealth to the constables of each towne within this jurissdiction, for them to publish within Fourteene dayes more, at some publique meeting in theire severall townes, and cause to bee written into a booke and kept for the use of the towne, and once every yeare, the constables in each towne, shall read or cause to bee read, in some publique meeting, all the capitall lawes, and give notice to all the inhabitants, where they may, at any time, see the rest of the lawes and orders, and acquaint themselves therewith: And the secretary of the courte, shall have twelve pence, for the copy of the orders of each session as aforesaid, from each of the townes.

And it is further ordered, That the secretary of the courte, shall record such wills and inventories as are exhibited into the said courte, and shall fyle the originall of them, and give a coppy thereof, to such as desire it, for which hee shall have for every record of any will or inventory, or both, which is above the summ of forty pounds, three shillings foure pence, and for every coppy of them, or either of them, one shilling eight pence; and for every search or supervising of them, six pence; allso, for re-

cording of every will or inventory, or both, which is above the summ of thirty pounds, and under the summ of forty pounds, two shillings six pence; and for every coppy of them, or either of them, fifteene pence, and for every search or supervising of them, foure pence; allso for every attachement, twelve pence, and for every bond or recogniscance in or about the same, six pence; allso, for every execution above five pounds, the secretary shall have twelve pence, and for every execution under five pounds, six pence; allso, for the entry of every or any recogniscance in courte, six pence, and for the withdrawing of it, twelve pence, which shall bee paid before the bounden bee freed from his said recogniscance.

It is allso ordered, That whosoever shall take out any warrant from the secretary of the courte, that concerns an action, shall before he hath a warrant, enter his action with the secretary, and then take out his warrant for summons to answer the same, for which they shall pay for every entry, twelve pence, and for every warrant, foure pence, though they agree with theire defendants before the

courte: Allso, if ány other magistrate shall graunt a warrant, which concerns an action, they shall enter the action in a small booke for that purpose, before they graunt the warrant, and shall make a due returne, at every courte, to the secretary thereof, what such warrants, and to whome they have graunted, and all such persons shall be as lyable to pay twelve pence for every such action, to the secretary of the courte, as if they should have had theire warrants of him.

## STRAYES.

It is ordered by this Courte and authority thereof, That whosoever shall take up any straye beast, or find any goods lost, whereof the owner is not knowne, he shall give notice thereof to the constable of the same towne, within six days, who shall enter the same in a booke, and take order that it bee cryed at theire next lecture day, or general meeting uppon three severall dayes, and if it bee above twenty shillings value, at the next markitt, or two next townes publique meetinge, where no markitt is within ten miles, uppon paine, that the partye so finding, and the said constable having such notice, and

failing to doe as is heereby appointed, to forfeitt either of them, for such default, one thirde parte of the value of such straye, or lost goods.

And if the finder shall not give notice as aforesaid, within one month, or if hee keepe it more then three months, and shall not aprize it by sufficient men, and allso record it with the register of the towne where it is found, he shall then forfeitt the full value thereof, and if the owner appears within one yeare after such publication, hee shall have restitution of the same, or the value thereof, hee paying all necessary charges, and the constable for his care and paines, as one of the next magistrates, or one of the townsmen shall adjudge; and if no owner appeare within the time prefixed, the said straye or lost goods shall be thus devided, one fourth parte thereof with his reasonable charge, shall bee to the finder; one fifth parte thereof, or ten shillings, to the constable, at the choyce of the courte, and the rest to the commonwealth; provided there bee three streakes clipt in the haire of the neare buttock, six inches long, that they may bee knowne.

## SWYNE.

It is ordered by this courte, That all the swyne, either hoggs or shoates, in the severall plantations, that are kept at home within the towne, shall by September next, be ringed or yoaked, or kept up in theire yards, under the penalty of foure pence for every such swyne, to bee paid by the owner, to the party that shall take the swyne so defective, and impound them; allso, all such as are kept by heards in the woods shall not bee suffered to abide above one nighte, in the towne; but that it shall bee lawfull to impound them, in case they come at any time home, from the middle of March to the middle of November. (Ffairefeild and Strattford desire to bee included in this order.)

*Ffor the better preserving corne and meadow on the east side of the Great River;*

It is ordered by this courte, That there shall no hoggs nor swyne of any sorte bee put over thither, or kept there, at any time after the publishing of this order, except they bee kept out of the bounds of the severall townes, or in

theire yardes, under the penalty of two shillings a head for every hogg or swyne, for every time they shall bee found there, contrary to this order.

## TIMBER.

It is ordered by this courte, That no timber shall be felled within three myles of the mouth of Mattabeseck river, nor at unseasonable times, viz. from the beginning of April to the end of September; and that it be improved into pipe-staves, or some other merchantable commodity, within one month after the felling thereof, or carted together; and that the timber so improved, shall not bee transported from the river, but for discharge of debts, or fetching in some necessary provision.

## TOBACKO.

*ffforasmuch as it is observed, that many abuses are crept in and committed, by frequent taking of tobacko.*

It is ordered by the authority of this Courte, That no person under the age of twenty one years, nor any other, that hath not already ac-

customed himself to the use thereof, shall take any tobacko, until hee hath brought a certificate under the hands of some who are approved for knowledge and skill in phisick, that it is usefull for him, and allso, that hee hath received a lycense from the courte, for the same.—And for the regulating of those, who either by theire former taking it, have, to theire own apprehensions, made it necessary to them, or uppon due advice, are persuaded to the use thereof.

It is ordered, That no man within this colonye, after the publication hereof, shall take any tobacko, publiquely in the streett, highwayes or any barne yardes, or uppon training dayes, in any open places, under the penalty of six-pence for each offence against this order, in any the perticulars thereof, to bee paid without gainesaying, uppon conviction, by the testimony of one witness, that is without just exception, before any one magistrate. And the constables in the severall townes, are required to make presentment to each perticular courte, of such as they doe understand, and can evict to be transgressors of this order.

## TRESPASSES.

It is ordered by this Courte and authority thereof, That if any horse or other beast, trespass in corne, or other inclosure, being fenced in such sorte as secures against cowes, oxen, small calves and such like orderly cattle, the party or parties trespassed, shall procure two able men of good reporte and creditt, to view and adjudge the harmes, which the owner of the beast shall satisfie (when knowne) uppon reasonable demaund, whether the beast were impounded or not; but if the owner bee knowne and neare residing, as in the same towne, or the like, notice shall bee left at the usuall place of his aboade, of the trespass, before an estimation bee made thereof, to the end hee, or any others appointed by him, may bee present when judgement is made; the like notice allso, shall bee left for him, of the dammage charged uppon him, that if hee approve not thereof, hee may repaire to the select townsmen, or some of them, who shall, in such case, nominate and appoint two able and indifferent men, to review and adjudge the said harmes, which being

forthwith discharged, together with the charge of the notice, former and latter view, and determination of dammages, the first judgement to bee void, or else to stand in lawe.

## TREASURER.

It is ordered, That the Treasurer shall deliver no money out of his hands, to any person, without the hands of two magistrates, if the summ bee above twenty shillings; if it bee under, then the Treasurer is to accept of the hand of one; but if it bee for the payment of some bills to bee allowed, which are referred to some comittees to consider of, whether allowed or not, that such bills as they allowe and sett theire hands unto, the Treasurer shall accept and give satisfaction.

## VOATES.

It is ordered by this Courte, and decreed, That if any person within these liberties, have beene or shall bee fyned or whipped for any scandalous offence, hee shall not bee admitted, after such time, to have any voate in towne or com-

monwealth, nor to serve on the jury, untill the courte shall manifest theire satisfaction.

## VERDICTS.

*That love and peace, with truth and righteousnes may continue and flourish in these confederated colonyes.*

It was uppon the recommendation of the commissioners, ordered, that any verdict or sentence of any courte within the colonyes, presented under authentique testimony, shall have a due respect in the severall courtes of this jurissdiction, where there may be occasion to make use thereof; and shall bee accounted good evidence for the partye, untill better evidence, or other just cause appeare, to alter, or make the same voide; and that in such case, the issue of the cause in question, bee respited for some convenient time, that the courte may be advised with, where the verdict or sentence first passed; provided notwithstanding, that this order shall bee accounted valid, and improved onely for the advantage of such as live within some of the confœderated colonyes, and where the verdicts in the courts of this colony, may

receive reciprocall respect by a like order established by the Generall courte of that colonye.

## WYNE AND STRONG WATER.

*Whereas many complaints are brought into the courte, by reason of diverse abuses that fall out by severall persons that sell wyne and strong water, as well in vessels on the river, as allso in severall howses, for the preventing hereof,*

It is now ordered by the authority of this Courte, That no person or persons, after the publishing of this order, shall neither sell wyne nor strong water, by retaile, in any place within these libberties, without license from the perticular court or any two magistrates, or where there is but one magistrate, by a magistrate and one of those appointed to order the affaires of the towne.

## WATCHES.

It is ordered by this Courte, and decreed, That there shall bee a sufficient watch meinteined in every towne, and that the constable

of each towne shall duely warne the same, and see that the inhabitants or residents, doe severally in theire turnes, observe the same, according as the inhabitants doe agree: And this courte doth explaine themselves, and order, that whosoever within this jurissdiction, that is lyable to watch, shall take a journeye out of the towne wherein hee liveth, after he hath had timely notice and warninge to watch, hee shall provide a watchman for that turne, though himselfe bee absent; and if any man that takes a journye, or goes out of the towne wherein hee liveth, if hee returne home within a weeke after the watch is past his howse, hee shall be called back to watch that turne, past a week before.

*And for the better keeping watches and wardes, by the constables, in time of peace,*

It is ordered by this Courte, and authority thereof, That every constable shall present to one of the next magistrates, the name of every person who shall uppon lawfull warning, refuse or neglect to watch or ward, either in person, or some other, fitt for that service; and if

being convented, hee cannott give a just excuse, such magistrate shall graunt warrant to levye five shillings on every such offender, for every such default, the same to bee imployed for the use of the watch of the same towne; and it is the intent of the lawe, that every person of able body (not exempted by lawe) or of estate to hire another, shall bee lyable to watch and warde, or to supplye it by some other, when they shall bee thereunto required; and if there bee, in the same howse, diverse such persons, whether sonnes, servants or sojourners, they shall all be compellable to watch, as aforesaid; provided, that all such as keepe families at theire farmes, being remoate from any towne, shall not be compellable to send theire servants or sonnes from their farmes, to watch and warde in the townes.

## WOLVES.

*Whereas great loss and dammage doth befall this Commonwealth, by reason of wolves, which destroy great numbers of our cattle, notwithstanding provision formerly made by this courte for supressing of them; therefore,*

*for the better incouragement of any to sett about a worke of so great concernement,*

It is ordered by this Courte, and authority thereof, That any person, either English or indian, that shall kill any wolf or wolves, within ten myles of any plantation within this jurissdiction, shall have for every wolfe by him or them so killed, ten shillings paid out of the Treasurye of the country; provided, that due proofe be made thereof, unto the plantation next adjoining where such wolfe or wolves were killed; and allso, bring a certificate under some magistrates hand, or the constable of that place, unto the Treasurer.

## WRECKS OF THE SEA.

It is ordered and decreed, and by this court declared, That if any shipps or other vessells, bee it ffreind or enemye, shall suffer shipwreck upon our coasts, there shall be no violence or wrong offered to theire persons or goods, but theire persons shall bee harboured and releived, and theire goods preserved in safety, till authority may bee certified, and shall take further order therein.

## VESSELLS.

It is ordered by this Courte, and authority thereof, That no vessell nor boat, shall have libberty to goe from any porte in any towne within this jurissdiction, before they have entred with the register or recorder, in each towne, what quantity of powder and shott they carry forth with them in theire said vessells, and shall take a certificate under the said registers or recorders hand, of the same, paying to him for every certificate, four pence; and if any vessell shall attempt to goe from the said towne or porte, or townes and portes, before hee hath entred as aforesaid, or shall be found with any more or greater quantity of powder and shott, aboard the vessell or vessells, then they had a certificate to shew they had entred, shall pay forfeit and pay for each default, the true value of all such powder and shott as they should have entred as aforesaid: And all such persons, or masters of such vessels, shall give a true account uppon theire return, to the said recorder, where they have entered the premises, how they have disposed thereof, uppon the

former penalty: And if the said towne register, or recorder, shall have just cause to conceive that hee or they carry forth more of the premises, then in an ordinary way, is requisite for their necessary defence and safety in theire intended voyage, then the said persons or masters of vessells, shall give in security unto the said recorder, if by him required thereunto, that hee shall give a due account to this commonwealth, of the same, uppon his returne.

## III.

# New-Haven Antiquities;

### OR, EXTRACTS FROM THE ANCIENT JUDICIAL RECORDS OF NEW-HAVEN.

*At a Court held at New-Haven, A. D.* 1643.

ANDREW LOW, jun. for breaking into Mr. Ling's house, where he brake open a cupboard and took from thence some Strong Water,* and 6d. in money, and ransackt the house from roome to roome, and left open the doors, for which fact being committed to prison brake forth and escaped, and still remains horrible obstinate and rebellious against his parents, and incorrigible under all the means that have been used to reclaim him. Whereupon it was ordered that he shall be as severely whipt as the rule will bare, and work with his father as

* Rum.

a prisoner with a lock uppon his leg so that he may not escape.

*December* 3*d*, 1651.

It was propounded that some safer way might be found out to Connecticote, that the danger of the East River might be avoyded. The new waye was desired to be viewed again, as William Bradley offered to lend his cannow to lie in the East River, if the town will find ropes to draw it to and agayne.

*At a Court, held May* 1, 1660

Jacob M. Murline and Sarah Tuttle being called appeared, concerning whom the Governor declared, that the business for which they were warned to this court he had heard in private at his house, which he related to stand thus.

On the day that John Potter was married Sarah Tuttle went to Mistress Murline's house for some thredd, Mistress Murline bid her go to her daughters in the other roome, where they felle into speeche of John Potter and his wife, that they were both lame, uppon which Sarah Tuttle said, that she wondered what they

would do at night. Whereupon Jacob came in, and tooke up or tooke away her gloves. Sarah desired him to give her the gloves, to which he answered he would do so if she would give him a kysse, uppon which they sat down together, his arme being about her waiste, and her arme upon his shoulder or about his necke, and *he* kyssed her and *she* kyssed him, or they kyssed oneanother, continuing in this posture about halfe an hour, as Marian and Susan testified, which Marian, now in court, affirmed to be so.

Mistress Murline, now in court, said that she heard Sarah say she wondered what they would do at night, and shee replyed they must sleep; but it was matter of sorrow and shame unto her.

Jacob was asked what he had to say to these things, to which he answered that he was in the other roome, and when he heard Sarah speak those words, he went in, when shee having let fall her gloves he tooke them up and she asked him for them, he told her he would if she would kysse him. Further said hee tooke her by the hand, and they both sat down upon

a chest, but whether his arme were about her waiste, and her arm upon his shoulder or about his neck, he knows not, for he never thought of it since, till Mr. Raymond told him of it at Mannatos for which he was blamed and told he had not layde it to heart as he ought. But Sarah Tuttle replyed that she did not kysse him. Mr. Tuttle replyed that Marian hath denied it, and he doth not looke upon her as a competent witness. Thomas Tuttle said that he asked Marian if his sister kyssed Jacob, and she said not. Moses Mansfield testified that he told Jacob Murline that he heard Sarah kyssed him, but he denied it. But Jacob graunted not what Moses testified.

Mr. Tuttle pleaded that Jacob had endeavoured to steal away his daughter's affections. But Sarah being asked if Jacob had inveagled her, she said no. Thomas Tuttle said that he came to their house two or three times before he went to Holland, and they two were together, and to what end he came he knows not, unless it were to inveagle her. And their mother warned Sarah not to keep company with him. And to the same purpose spake Jonathan

Tuttle. But Jacob denied that he came to their house with any such intendment, nor did it appeare so to the court.

The Governor told Sarah that her miscarriage* is the greatest, that a virgin should be so bold in the presence of others to carry it as she had done, and to speake suche corrupt words, most of the things charged against her being acknowledged by herself, though that about kyssing is denied, yet the *thing* is prooved. Sarah professed that she was sorry that shee had carried it so sinfully and foolishly, which she saw to be hateful. She hoped GOD would help her to carry it better for time to come.

The Governor allso told Jacob that his carriage hath been very evil and sinful so to carry it towards her, and to make such a light matter of it as not to think of it, (as he exprest,) doth greatly aggravate, and for Marian, who was a married woman, to suffer her brother and a man's daughter, to sit almost half an hour in such a way as they have related was a very great evil. She was told that she should have

* *i. e.*, immodesty, indiscretion.

showed her indignation against it, and have told her mother, that Sarah might have been shut out of doors. Mrs. Murline was told that she, hearing such words, should not have suffered it. Mrs. Tuttle and Mrs. Murline being asked if they had any more to say they said no.

Whereuppon the court declared, that we have heard in the Publique Ministry that it is a thing to be lamented, that young people should have their meetings to the corrupting of themselves and one another. As for Sarah Tuttle her miscarriages are very great, that she should utter so corrupt a speeche as she did concerning the persons to be married, and that she should carry it in such a wanton, uncivil, immodest and lascivious manner as hath been proved. And for Jacob his carriage hath been very corrupt and sinful, such as brings reproach upon the family and place.

The sentence therefore concerning them is, that they shall pay either of them as a fine 20s. to the Treasurer.

*A Court holden 3d November*, 1639.

It is ordered, that Mr. Hopkins shall have

two hogsheads of lime for his present use, and as much more as will finish his house as he now intends itt, he thinking that two hogsheads more will serve.

It is ordered that a meeting-house shall be built forthwith, fifty foote square; and that the carpenters shall fall timber where they can finde it till allotment be layed out, and men know ther own proprietyes.

It is ordered, that Mr. Gregson and Mr. Evance shall have fower dayes liberty after this day to square their timber, before the former order shall take hold of them.

It is ordered, that Mr. Eaton, Mr. Davenport, Robt. Newnan, Matthew Gilbert, Capt. Turner and Thomas Fflugill shall from hence forward have the disposing of all the house lotts, yett undisposed of, about this towne, to such persons as they shall judge meete for the good of the plantation; and thatt none shall come to dwell as planters here without their consent and allowance, whether they come in by purchase or otherwise.

It is ordered, that every one thatt beares armes shall be compleatly furnished with armes,

(viz) a muskett, a sword, vandaleers, a rest, a pound of powder; 20 bullets fitted to their muskett, or 4 pound of pistoll shott, or swan shott att least, and be ready to show them in the market place upon Monday the 6th of this moneth before Captaine Turner and Lieutenant Seeley, under the penalty of 20s fine for every default or absence.

*A Court holden the 4th of December*, 1639.

It is ordered that Thomas Saule shall agree with Goodman Spinnage before the next Court, or else the Court will determine the difference between them.

Roger Duhurst and James Stewart are enjoyned to make double restitution to John Cockerill for five pound and seventeen shillings, which they stole out of his chist on the Lords day in the meeting time, and they being servants to the said Cockerill, for which aggravation they were whipped also.

Thomas Manchester, servent to Mr. Perry, being accused by his master for being drunk, and for giving his master uncomely language, for which his master having given him some

correction, the Court (only) cased him to be sett in the stocks for a certain time.

Nicholas Tamer, servant to the said Mr. Perry, for drunkenness and abusing his master in words, was whipped.

*A General Court 4th of January*, 1639.

It is agreed by the towne, and accordingly ordered by the Courte, that the Neck shall be planted or sown for the term of seven years, and that John Brockett shall goe about laying it out, for which, and all differences betwixt party and party about ground formerly broke up and planted by English there, shall be arbitrated by indifferent men, which shall be chosen to that end.

It is ordered, that some speedy course shall be taken to keep hogs out of the neck.

It is ordered, that a convenient way to the Hay place be left comon for all the towne.

It is ordered, that no cattell belonging to this towne shall goe without a keeper after the first of May next.

*A General Court, 5th February*, 1639.

It is ordered, thatt brother Andrews, bro. Kimberly, Wm. Enos and Sergeant Beckley shall assist Mr. Ling to ripen Goodman Tap's business against the next Courte, concerning his demands of certain monyes which he disbursed for bringing cattell from the Bay, appertaining to divers persons.

It is ordered that brother Andrews shall detaine so much of Robt. Campion, his wages in his hands, as may secure a debt of 3*lb* which Mr. Moulend demaunds of the said Robt.

It is ordered, that Mr. Moulend shall pay to Mr. Perry 20*s* which he owes to him.

It is ordered, that Mr. Wilkee shall pay 5 bushells and a halfe of Indian corne to Thomas Buckingham, for corne destroyed by Mr. Wilks his hogs.

Isaiah, Captain Turner's man, fined 5*lb* for being drunk on the Lords day.

Wm. Bromfield Mr. Malbon's man was sett in the stocks for prophaning the Lord's day and stealing wine from his master, which he drunk and gave to others.

Ellice, Mr. Eaton's boy, was whipped for

stealing a sow and a goat from his master, and selling them.

David Anderson was whipped for being drunke.

John Fenner, accused for being drunke with strong waters, was acquitted, itt appearing to be of infirmity, and occasioned by the extremity of the cold.

Mr. Moulend accused of being drunke, but nott clearly proved, was respited.

Peter Browne, Licensed to bake to sell, so long as he gives no offence in it justly.

18*th February*, 1639.

John Charles forbidden to draw wine, because there hath been much disorder by itt.

Goodman Leone was whipped and sent out of the plantation, being not onely a disorderly person himselfe, butt an incourager of others to disorderly drinking meetings.

George Spencer being prophane and disorderly in his whole conversation, and an abettor of others to sin, and drawing on others in to a conspericie to carry away the Cock to

Virgenia, was whipped and sent out of the plantation.

John Proute, Hen. Brasier and William Bromfield was whipped for joyning in the aforesaid conspericie, and the said Hen. and Wm. were ordered to weare irons during the magistrate's pleasure.

*A Court holden the 1st of July*, 1640

Thomas Parsons and John ——— servants to Elias Parkmore, were whipped for their sinfull dalliance and folly with Lydia Browne.

*5th August*, 1640.

It is ordered, that none in this plantatione shall either sell or lett a lott to any stranger, for years, without allowance from the Courte.

It is ordered thatt att this day, every yeare all the Ram Goates in the towne shall either be side stringed, or some other Course taken with them so as they cannot Ram the Ewes till the fittest season.

*A Court held at New-Haven the 3d of the 7th month*, 1642.

Matthew Willson for killing a dog of Mr.

Perry's, willfully and disorderly, fined 20*s* for his disorder, and ordered to pay 20*s* damage to Mr. Perry, which 40*s* Edward Chipperfield undertooke to see pay'd by the last of September next.

John Lobell the Miller, for sinfull dalliance with a little wench of Goodman Halls, was whipped.

*8th month*, 1642.

It is ordered, thatt whosoever findes any things thatt are Lost shall deliver them to the Marshall, to be kept safe till the owners challenge them.

*New-Haven, 2nd November*, 1642.

Jeruas Boykin is ordered to pay unto George Badcocke the sum of 20*s* for taking his cannow without leave.

It is ordered, thatt those who have their ffarmes att the River, Called stony River, shall have Liberty to make a sluice in the River for their owne convenience.

*7th December*, 1642.

Fforasmuch as John Owen hath had some

damage done in his corne by hogs, occasioned through the neglect of Mr. Lamberton, John Bud and Will Preston, in not makeing up their fence in season, It is therefore ordered, thatt the said Mr. Lamberton, John Bud and Will Preston shall make Satisfaction to the said John Owen, for the damage done; (viz.) Eight days worke and two Pecks of Corne, which is to be payd according to the several apportions of ffence unset up respectively.

1*st of* 1*st month,* 1643.

John Lawrence and Valentine, servants to Mr. Malbon, for Imbezilling their masters Goods, and keeping disorderly night Meetings with Will Harding, a Lewd and disorderly person, plotting with him to carry their master's daughters to the farmes in the night, concealing divers uncleane filthy dalliances; all which they confessed and was whipped.

Ruth Acie, a Covenant servant to Mr. Malbon, for stubbornes, lyeing, stealing from her Mrs. and yeilding to filthy dalliance with Will Harding, was whipped.

Martha Malbon, for consenting to goe in the

night to the farmes with Will Harding, to a venison feast, for stealing things from her parents, and yielding to filthy dalliance with the said Harding, was whipped.

Goodman Hunt and his Wife, for keepeing the Councells of the said William Harding, Bakeing him a Pastry and Plum Cakes, and keeping Company with him on the Lord's day, and she suffering Harding to kisse her, they being onely admitted to sojourn in this Plantation upon their good behavior, was ordered to be sent out of this towne within one moneth after the date hereof; yea, in a shorter time; if any miscarryage be found in them.

*At a Court held at New-Haven, September* 2, *A. D.* 1662.

Edmund Dorman, plaintiff, entered an action of slaunder or defamation against Jeremiah Johnson, defendant. The plaintiff informed against him that he had heard that J. Johnson had reported at John Olvarde's house, that he heard Dorman at prayer in a swamp for a wife, and being asked by John Olvarde who the person was, he answered that it was his mare.

And there was other circumstances of scoffing, &c.

The defendant was asked whether he graunted the thing or denied. The defendant desired proof and that the witnesses might speake apart. John Olvarde was first called, who testified that Johnson being at his house, he heard him say, that he heard Edmund Dorman at prayer in a swamp, (by John Downes's) for a wife; and sayde, 'Lord thou knowest my necessitie and canst supplie it. Lord bend and bow her wille, and make her sensible of my condition or necessitie.' He asked Jeremiah who it was: he answered it may be his mare, that she might be made servissable. John Olvarde being asked when it was, he said it was since harvest.

Stephen Bradley being called also testified the same thing. The defendant being asked what he had to say for himself, said he thought Bradley did it out of revenge. But he was told he must prove him a false person upon record, or perjured, or that he doth it out of revenge at this time. The defendant further said he did expect some other persons that was present at

John Olvarde's would have been here, therefore did refuse to make his defence further at this time; and desired that the witnesses might not be sworn.

Then Jeremiah was told that it was a fearful thing to come to that height of sin, as to sit in the seat of the scorner. Therefore the court told him they should defer this business, and warned him to attend the next particular court to give answer hereunto.

*December* 3*d*, 1651.

Will Harding being convicted of a great deal of base carriage with divers yonge girls, together with enticing and corrupting divers men servants in this plantation, haunting with them at night meetings and juncketings, &c. was sentenced to be severely whipped, and fined 5*l*. to Mr. Malbone, and 5*l*. to Will Andrews whose famylyes and daughters he hath so much wronged, and presently to depart the plantation, and not to retourne under the penalty of severer punishment.

1642. Samuel Hoskins and Elizabeth Cleverly being desirous to join together in the

state of marriage, and not being able to make proof of their parent's consent, but seeing they both affirm they have the consent of their parents and withall having entered into contract, and sinfully and wickedly made themselves both unfit for any other, and for which they both have received Publique correction, upon these considerations granted them liberty to marry.

1643. Margaret Bedforde being convicted of divers miscarriages, was severely whipped, and ordered to be married to Nicholas Jennings with whom she hath been naught.

## IV.

*The following is the most ancient record of the Colony of New-Haven, and is a curiosity in the history of civil government.*

THE 4th day of the 4th moneth, called June, 1639, all the free planters assembled together in a general meetinge, to consult about settling civil government according to GOD, and about the nomination of persons that may be found by consent of all fittest in all respects for the foundation work of a Church which was intended to be gathered in Quinipieck. After sollemne invocation of the name of GOD in prayer, for the presence and help of his spirit and grace, in these weighty businesses, they were reminded of the business whereabout they met (viz) for the establishment of such civil order as might be most pleasing unto GOD, and for the chusing the fittest men for the foundation work of a church to be gathered. For the

better enabling them to discerne the minde of GOD, and to agree accordingly concerning the establishment of civil order, Mr. John Davenport propounded divers queries unto them, publickly praying them to consider seriously in the presence and feare of GOD the weight of the business they met about, and not to be rash or sleight in giving their votes to things they understood not, but to digest fully and thoroughly what should be propounded unto them, and without respect to men, as they should be satisfied and perswaded in their own minds to give their answers in such sort as they would be willing they should stand upon record for posterity.

This being earnestly expressed by Mr. Davenport, Mr. Robert Newman was intreated to write in charracters and to read distinctly and audibly in the hearing of all the people, what was propounded and accorded on, that it might appear that all consented to matters propounded according to words written by him.

Quære 1. Whether the Scriptures doe holde fourth a perfect rule for the direction and government of all men in all duteyes which

they are to perform to GOD and men as well in the government of famylyes and commonwealths as in matters of the church?

This was assented unto by all, no man dissenting, as was expressed by holding up of hands. Afterwards it was read over to them, that they might see in what wordes their vote was expressed: they againe expressed their consent thereto by holding up their hands, no man dissenting.

Quære 2. Whereas there was a covenant sollemnely made by the whole assembly of free planters of this plantation, the first day of extraordinary humiliation that we had after we came together, that as in matters that concern the gathering and ordering of a church, so likewise in all publique offices, which concern civil order, as choyce of magistrates and officers, making and repealing of laws, divideing allotments of inheritances, and all things of like nature we would all of us be ordered by those rules which the scripture holds forth to us. This covenant was called a plantation covenant to distinguish it from a church covenant, which could not at that time be made, a

church not being then gathered, but was deferred till a church might be gathered according to GOD. It was demanded whether all the free planters doe holde themselves bound by that covenant in all business of that nature which are expressed in the covenant, to submit themselves to be ordered by the rules which are held forth in the scripture.

This also was assented unto by all, and no man gainsaied it, and they did testify the same by holding up their handes, both when it was first propounded, and afterwards confirmed the same by holding up their hands when it was read unto them in publiqne. John Clark being absent when the covenant was made doth now manifest his consent to it. Also Richard Beach, Andrew Low, Goodman Bamster, Arthur Halbidge, John Potter, Richard Hill, John Brockett, and John Johnson, these persons being not admitted planters when the covenant was made doth now expresse their consent to it.

Quære 3. Those who have desired to be received as free planters and are settled in the plantation with a purposed resolution and desire that they may be admitted into church fel-

lowship, according to Christ, as soon as GOD shall fitt them thereunto, were desired to expresse it by holding up of hands, accordingly all did express this to be their desire, and purpose by holding up their hands twice, (viz) both at the proposal of it, and after when these written words were read unto them.

Quære 4. All the free planters were called upon to express whether they held themselves bound to establish such civil order as might best conduce to the securing the purity and peace of the ordinances to themselves and their posterity, according to GOD. In answer hereunto they expressed by holding up their hands twice as before. That they helde themselves bound to establish such civil order as might best conduce to the ends aforesaid.

Then Mr. Davenport declared unto them by the scriptures what kind of persons might best be trusted with matters of government, and by sundry arguments from scripture proved that such as were described Ex. 18. 1. Deut. 1. 13. with Deut. 19. 15. and 1 Cor. 6. 1 to 7, ought to be entrusted by them, seeing they were free to cast themselves into that mould and forme of

commonwealth which appeareth best for them in reference to the secureing the pure and peaceable enjoyment of all Christ his ordinonces in the church according to GOD, whereunto they have bound themselves as hath been acknowledged. Having said this he sat down, praying the company freely to consider whether they would have it voted at this time or not. After some space of silence Mr. Theophilus Eaton answered it might be voted, and some others also spake to the same purpose, none at all opposing it. Then it was propounded to vote.

Quære 5. Whether free Burgesses shall be chosen out of Church members, they that are in the foundation work of the church being actually free burgesses, and to chuse to themselves out of the like estate of church fellowship, and the power of chusing magistrates and officers from among themselves and the power of making and repealing laws according to the word, and the dividing of inheritances, and the deciding differences that may arise, and all the businesses of like nature are to be transacted by those free burgesses.

This, (viz. Quære 5.) was put to vote, and agreed unto by the lifting up of hands twice, as in the former cases it was done. Then one man stood up after the vote was past, and expressing his dissenting from the rest, in that yet granting, 1 That magistrates should be men fearing GOD, 2. That the Church is the company whence ordinarily such men may be expected. 3. That they that chuse them ought to be men fearing GOD, onelye at this he stucke, That free planters ought not to give the power out of their hands.

Another stood up and answered that in this case nothing was done but with their consent. The former answered that all the free planters ought to resume this power into their own hands again if things were not orderly carried. Mr. Theophilus Eaton answered that in all places they chuse committees. In like manner the companys of London chuse the liverys by whom the publique magistrates are chosen. In this the rest are not wronged: because they expect to be of the livery themselves, and to have the same power. Some others intreated the former to give his arguments and reasons



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whereupon he dissented. He refused to doe it, and said they might not rationally demaund it, seeing he let the vote pass on freely, and did not speak till after it was past because he would not hinder what they agreed upon. Then Mr. Davenport, after a short relation of some former passages between them two about this question, prayed the company that nothing might be concluded by them in this weighty question but what themselves were persuaded to be agreeing with the minde of GOD, and they had heard what had been sayd since the vote, intreated them agayne to consider of it and agayne to put it to vote as before. Agayne all of them, by holding up their hands, did shew their consent as before. And some of them professed, that whereas they did waver before they came to the assembly, they were now fully convinced, that it is the minde of GOD. One of them said that in the morning before he came, reading Deuteronomy 17. 15. he was convinced at home. Another said that he came doubting to the assembly, but he blessed GOD, by what had beene said he was now fully satisfied that the choyce of burgesses out of Church

members and to intrust these with the power before spoken of, is according to the minde of GOD revealed in the scripture. All having spoken their apprehensions it was agreed upon, and Mr. Robert Newman was desired to write it as an order whereunto every one that hereafter should be admitted here as planters should submit, and testify the same by subscribing their names to the order, namely,

That Church Members only shall be free Burgesses, and that they only shall chuse magistrates and officers among themselves, to have the power of transacting all publique civil affairs of this plantation, of making and repealing laws, devideing of inheritances, deciding of differences that may arise, and doing all things or businesses of like nature.

This being settled as a fundamental article concerning civil government, Mr. Davenport propounded and proposed some things to consideration aboute the gatheringe of a Church. And to prevent the blemishing of the first beginnings of the worke, He advised that the names of such as were to be admitted might be publiquely propounded, to the end that they

who were most approved might be chosen; for the town being cast into several private meetings wherein they that dwelt nearest together gave their accounts one to another of GOD's gracious work upon them, and prayed together, and conferred to their mutual edification, sundry of them had knowledge one of another, and in every meeting some one was more approved of all than any other,—For this reason, and to prevent scandalls, the whole company was intreated to consider whom they found fittest to nominate for this worke.

Quære 6. Whether are you all willing and do agree in this, that twelve men be chosen, that their fitness for the foundation work may be tried, however there may be more named, yet it may be more in their power who are chosen to reduce them to twelve and it be in the power of those twelve to chuse out of themselves 7, that shall be most approved of the major part to begin the church.

This was agreed upon by consent of all, as was expressed by holding up of hands, and that so many as should be thought fit for the foundation work of a church shall be pro-

pounded by the plantation and written down, and passe without exception, unlesse they had given public scandal or offence, yet so as in case of publique scandall and offence, every one should have liberty to propound their exceptions at that time publiquely against any man that should be nominated when all the names should be writ down, but if the offence were private, that men's names might be tendered, so many as were offended, were intreated to deal with the offender privately. And if he gave not satisfaction to bring the matter to the twelve that they might consider of it impartially and in the feare of GOD. The names of the persons named and agreed upon were Mr. T. Eaton, Mr. J. Davenport, Robert Newman, Matthew Gibb, Richard Malthie, Nathaniel Turner, Thomas Fugill, John Punderson, William Andrews John Dixon. No exception was brought against any of these in public, except one about taking an excessive rate for meal that he had sold to one of Pequonnock in his neede, which he confessed with grief, and declared that having been smitten in heart, and troubled in his conscience, he offered such a

part of the price back again, with confession of his sin to the party, as he thought himself bound to do. And it being feared that the report of his sin was heard further than the report of his satisfaction a course was concluded on to make the satisfaction, to as many as heard of the sin. It was also agreed upon at the said meetinge, that if the persons above named did find themselves straitened in the number of fit men for the 7, that it should be free for them to take into tryal of fitnesse such other as they should think meete. Provided that it should be signified to the town upon the Lord's day who they so take in that every man may be satisfied of them, according to the course formerly taken.

[The foregoing was subscribed and signed by one hundred and eleven persons.]

# APPENDIX.

## I.

### THE FIRST COLLECTION OF LAWS ADOPTED IN THE COLONY OF MASSACHUSETTS.*

At the first meeting of the Court of Assistants at Charlestown, Aug. 23d, 1630, they established rules of proceeding in all civil actions, and instituted subordinate powers for punishing offenders. The supreme authority being in the Court of Assistants, they resolved upon frequent meetings for the due execution of it. As it was necessary for every family to provide lodgings before winter, the first law proposed and passed was for the regulating the price of wages of workmen, under a penalty to him that gave as well as to him who received more than the limited price. They pro-

* The following judicial decisions and enactments were the first by which this colony was governed, and they deserve to be termed "Blue Laws" with as much propriety as those of Connecticut. They are taken from Hutchinson's History of Massachusetts Bay, Boston, 1769, p. 435.—S. M. S.

ceeded to other laws for punishing idleness and encouraging industry; and, as they were in the midst of savages much more numerous than themthemselves, they obliged every man to attend military exercises, and limited the bounds of their plantations that none might be more exposed than was necessary.

In civil actions, equity, according to the circumstances of the case, seems to have been their rule of determining. The judges had recourse to no other authorities than the reason and understanding which God had given them. In punishing offenses they professed to be governed by the judicial law of Moses, but no further than those laws were of a moral nature.

Whilst they were thus without a code or body of laws, and the colony but just come to its birth, their sentences seem to be adapted to the circumstances of a large family of children and servants; as will appear from the following, which, from amongst many others of the same sort, I have taken out of the public records.

Josias Plaistowe, for stealing four baskets of corn from the Indians, is ordered to return them eight baskets, to be fined five pounds, and hereafter to be called by the name of Josias, and not* Mr. as formerly he used to be.

* They were very careful that no title or appellation should be given where it was not due. Not more than half a dozen of the principal gentlemen took the title of esquire; and in a list of one hundred freemen you

Captain Stone for abusing Mr. Ludlow, and calling him justass, is fined an hundred pounds, and prohibited coming within the patent without the governor's leave upon pain of death.

Serjeant Perkins ordered to carry forty turfs to the fort for being drunk.

Edward Palmer for his extortion, in taking two pounds thirteen shillings and four pence for the wood work of Boston stocks, is fined five pounds, and ordered to be set one hour in the stocks.

Captain Lovel admonished to take heed of light carriage.

Thomas Petit for suspicion of slander, idleness and stubbornness, is censured to be severely whipped, and to be kept in hold.

Catherine, the wife of Richard Cornish, was found to be suspicious of incontinency, and seriously admonished to take heed.

Daniel Clarke, found to be an immoderate drinker, was fined forty shillings.

John Wedgewood, for being in the company of drunkards, to be set in the stocks.

John Kitchin, for showing books which he was commanded to bring to the governor, and forbidden to show them to any other and yet showed them, was fined ten shillings.

Robert Shorthose, for swearing by the blood of

will not find above four or five distinguished by Mr., although they were generally men of some substance. Goodman and goodwife were common appellations.

God, was sentenced to have his tongue put into a cleft stick, and to stand so for the space of half an hour.

In that branch of law more especially which is distinguished by the name of crown law, they professed to have no regard to the rules of the common law of England. They intended to follow Moses's plan, as has been observed, but no farther than it was of a moral nature* and obligatory upon all mankind, and perhaps they did not, in many instances, err in judgment upon the morality of actions, but their grand mistake lay in sup-

* They did not go the length of the Brownists, who are said to have held "that no prince nor state on the earth hath any legislative power, that God alone is the lawgiver, that the greatest magistrate hath no other power but to execute the laws of God set down in scripture, that the judicial laws of Moses bind at this day all the nations of the world as much as ever they did the Jews."—*Baylie.*

Roger Williams said that "although they professed to be bound by such judicials only as contained in them moral equity, yet they extended this moral equity to so many particulars as to take in the whole judicial law, no less than the rigidest Brownists."—*Idem.*

Although they did not go to this extreme, it must be allowed they did not keep within the limits they professed as their rule. They were charged with the holding it to be the duty of the magistrate to kill all idolaters and heretics, even whole cities, men, women, and children, from the command of the Israelites to root out the Canaanites.—*Idem.*

posing certain natural punishments, in every state, alike proportioned to this or that particular kind of offence, and which Moses had observed; whereas such punishments are and ought to be governed by the particular constitutions and circumstances of the several kingdoms and states where they are applied; and although they were undoubtedly well fitted to the state of the ancient Israelites, and the great end of punishment, viz., the preventing the like offences, could not, it may be, have been otherwise so well effected, yet they were by no means obligatory upon other states whose constitutions or circumstances differed; and other states have therefore continually more or less varied from them. Idolatry was the sin which easily beset the Israelites, and it was necessary to make it a capital offence. Perhaps if it should be thought proper to prohibit idolatry in China, at this day, the same penalty might be necessary, and yet not so in New England.

Murder,* sodomy, witchcraft, arson, and rape of a child under ten years of age, were the only crimes made capital in the colony which were capital in England, and yet, from the mistaken

* Homicide was either murder, excusable homicide, or justifiable. They did not make the distinction of manslaughter from murder. The benefit of the clergy was of popish extract, and burning in the hand with a cold iron appeared to them a ridiculous ceremony.

principle I have just mentioned their laws were more sanguinary than the English laws; for many offences were made capital here which were not so there. The first in order, being a breach of the first command in the decalogue, was the worship of any other God besides the Lord God. Perhaps a Roman Catholic, for the adoration of the host, might have come within this law. After the miserable Indians submitted to the English laws, special provision was made, by another law, that if any of them should powow or perform outward worship to their false gods, the powower (who was their priest) should be fined five pounds, and others present twenty shillings each. The Indians have been punished upon the latter law, but I never met with an instance of a prosecution of any Englishman upon the former.

To blaspheme the holy name of God, Father, Son, or Holy Ghost, with direct, express, presumptuous, or highhanded blasphemy, either by wilful or obstinate denying the true God, or his creation or Government of the world, cursing God, or reproaching the holy religion of God, as if it was a politic device to keep ignorant men in awe, or to utter any other kind of blasphemy of the like nature and degree, was also made capital.

Man-stealing, from Exodus xxi. 16, was also capital.

So was adultery with a married woman, both to the man and woman, altho' the man was single,

and several have suffered death upon this law.* Male adultery with an unmarried woman, was not capital.

He who was convicted of wilful perjury, with intent to take away the life of another, was to suffer death, from Deut. xix. 16. This crime may well enough be denominated murder, and yet a wilful perjury, by which a man's life is in fact taken away, was never made capital in England. Many offences are made so, which seem to be inferior in their guilt and consequences to the public. The difficulty of conviction may be one

* Philo places the command against adultery before that against murder. There was a pretty extraordinary instance of a prosecution for adultery in the year 1663. Mr. N. P., a young merchant, had been intimate with a married lady of one of the first families in the country. After her husband's death he married her. After they had lived together three or four years, a prosecution was began against both of them, for adultery in the life time of the first husband. They were both committed to prison and separately brought upon trial for their lives. The court and jury were favorable to the husband and acquitted him of a capital offence, probably because he was not at the time charged a married man. The wife likewise met with a favorable jury, and they found her also not guilty, but the court, who thought otherwise, refused the verdict, and the cause was carried before the general court, where she very narrowly escaped, the whole court determining that there was proof of a crime which approached very near to adultery, but in favor of life she was discharged.

reason, and the discouragement, it would sometimes be, to witnesses to give their testimonies another and stronger reason in vindication of the common law. In this instance the Massachusetts law agreed, I take it, with the civil law, the laws of Scotland at this day, and of many other states in Europe.

A child, above sixteen years of age, that cursed or smote his father or mother, unless provoked by cruelty and in its own defence, or unchristianly neglected in its education, and also a stubborn and rebellious son, according to Deut. xxi. 20, upon conviction, were to suffer death. There have been several trials upon this law. I have met with one conviction, but the offender was rescued from the gallows by the order of the King's commissioners in 1665.*

* In the first draught of the laws by Mr. Cotton, which I have seen corrected with Mr. Winthrop's hand, divers other offences were made capital, viz.

Prophaning the Lord's day in a careless or scornful neglect or contempt thereof. Numbers xv. 30 to 36.

Reviling the magistrates in highest rank, viz. the governor and council. Exod. xxii. 18. 1 Kings xxii. 8, 9, 44.

Defiling a woman espoused. Deut. xxii. 23 to 26.

Incest within the Levitical degrees.

The pollution mentioned in Levit. xx. 13 to 16.

Lying with a maid in her father's house, and keeping it secret until she was married to another. Exod. xxi. 16.

The punishment by death is erased from all these

High treason is not mentioned.* Before they had agreed upon the body of laws, the King's authority in England was at an end. Conspiracy to invade their own commonwealth, or any treacherous perfidious attempt to alter and subvert fundamentally the frame of their policy and government was made a capital offence.

Rape, it was left to the court to punish with death or other grievous punishment at discretion.† No judge would desire to have a capital punishment left to his discretion, and it may be doubted whether, in any case, it can be of public utility.

Several offences were capital upon a second con-

offecnes by Mr. Winthrop, and they are left to the discretion of the court to inflict other punishment short of death.

From the same prejudice in favor of Israelitish customs a fondness arose, or at least was increased, for significant names for children. The three first that were baptized in Boston church were, Joy, Recompence, and Pity. The humor spread. The town of Dorchester, in particular, was remarkable for such names as Faith, Hope, Charity, Deliverance, Dependance, Preserved, Content, Prudent, Patience, Thankful, Hateevil, Holdfast, &c. Many of which at this day are retained in families, in remembrance of their ancestors.

* In 1678, when complaints were made against the colony, it was by law made capital.

† Rape was not capital by the Jewish law, and for that reason it was not so for many years by the colony law.

viction, as the returning of a Romish priest into the jurisdiction after banishment upon the first conviction. The law was the same with respect to Quakers also.

The denial of either of the books of the Old and New Testament, which were all enumerated, to be the written and infallible word of God, was either banishment or death for the second offence, at the discretion of the court, and what is very extraordinary, an inhabitant who was guilty of this offence upon the high seas, was made liable to the penalty.

Burglary, and theft in a house or fields on the Lord's day, were capital upon a third conviction. These were all the offences which they made capital.

Larceny or theft, was punishable by fine or whipping and restitution of treble the value, and theft boot by a forfeiture of the value of the goods to the government.

The penalty of drunkenness was ten shillings, excessive drinking three shillings and four pence, tippling above half an hour, half a crown, prophane cursing and swearing, ten shillings, and if more than one oath at a time, twenty shillings.

I have seen a letter, dated about the year 1660, wherein a gentleman writes to his friend in London, that "he had lived several years in the country and never saw a person drunk nor never heard a profane oath."

The penalty of prophanation of the Sabbath was ten shillings.*

Fornication, might be punished by enjoining marriage, by fine or corporal punishment, and a freeman, for this offence, might be disfranchised upon conviction.†

Idleness was no small offence; common fowlers, tobacco-takers, and all other persons who could give no good account how they spent their time, the constables were required to present to the next magistrate; and the selectmen of every town were required to oversee the families, and to distribute the children into classes, and to take care that they were employed in spinning and other labor, according to their age and condition.

Contempt of authority, was punished with great severity, by fine, imprisonment or corporal punishment.

Lesser offences, as all breaches of the peace, and also every offence *contra bonos mores*, where there was no determinate penalty, the court, before which the offence was tried, punished at discretion.

* When exception was taken in England to the laws, that, relative to the Sabbath, restraining persons from walking in the streets or fields, was one; but, although their charter was in danger, they refused to make any alteration in the law.

† Exodus xxii. 16, 17, caused some doubt whether fine or corporal punishment was to be inflicted for fornication. I have several manuscripts on both sides the question.

They had a law against slavery, except prisoners taken in war. Negroes were brought in very early among them.* Some judicious persons are of opinion that the permission of slavery has been a public mischief.

Their laws concerning marriage and divorce were somewhat singular. I suppose there had been no instance of a marriage, lawfully celebrated, by a layman in England, when they left it. I believe there was no instance of marriage by a clergyman after they arrived, during their charter, but it was always done by a magistrate, or by persons specially appointed for that purpose, who were confined to particular towns or districts. If a minister happened to be present, he was desired to pray. It is difficult to assign a reason for so sudden a change, especially as there was no established form of the marriage covenant, and it must have been administered many times in the new plantations by persons not the most proper for that purpose, considering of what importance it is to society that a sense of this ordinance, in some degree sacred, should be maintained and preserved.† At this day, marriages are solemnized

* Josselyn mentions three or four blacks in Mr. Maverick's family at Noddle's-island in 1638.

† The Scotch writers tell us, that by their laws it is not necessary that marriages should be celebrated by a clergyman, that the consent of parties, signified before a magistrate, or only before two witnesses, and without consummation, will make a marriage valid.

by the clergy, and altho' the law admits of its being done by a justice of peace, yet not one in many hundred is performed by them.

In matters of divorce, they left the rules of the canon law out of the question; with respect to some of them prudently enough. I never heard of a separation, under the first charter, *a mensa et thoro.* Where it is practised, the innocent party often suffers more than the guilty. In general, what would have been cause for such a separation in the spiritual courts, was sufficient, with them, for a divorce *a vinculo.* Female adultery was never doubted to have been sufficient cause, but male adultery, after some debate and consultation with the elders, was judged not sufficient. *Desertion a year or two, where there was evidence of a determined design not to return, was always good cause; so was cruel usage of the husband.** Consanguinity they settled in the same degrees as it is settled in England and in the Levitical laws. It is said, a man may give his wife moderate correction without exposing himself to any penalty in the law; our legislators had more tender sentiments of this happy state, and a man who struck his wife was liable to a fine of ten pounds or

* It is a circumstance worthy of note, that these Puritans, extremely rigid as they were, allowed divorces for several causes which their descendants, and other orthodox people of the present day, repudiate; who absurdly insist that the New Testament restricts divorces to cases of adultery alone.—S. M. S.

corporal punishment: A woman who struck her husband was liable to the same penalties.

---

## II.

### COPY OF THE DETERMINATION OF ARBITRATORS FOR SETTLING THE LINE BETWEEN NEW-HAVEN AND THE DUTCH IN 1650.

Articles of agreement made and concluded at Hartford, upon Connecticut, Sep. 19, 1650, betwixt the delegates of the honored commissioners of the United Englishe Colonies, and the delegates of Peter Stuyvesant, governor-generall of Newe-Netherlands. Concerning the bounds and limits betwixt the English United Collonies and the Dutch province of Newe-Netherlands, wee agree and determine as followeth.

1. That upon Long-Island, a line, run from the westermost part of Oyster-Bay, and so in a streight and direct line to the sea, shall be the bounds betweene the Englishe and Dutch there; the easterly part to belonge to the English, the westermost part to the Dutch.

2. The bounds, upon the maine, to begin upon the west side of Greenwich Bay, being about four miles from Stamford, and so to run a westerly line twenty miles up into the country, and after, as it shall be agreed by the two governments of the

Dutch and Newe Haven, provided the said line run not within tenn miles of Hartford river. And it is agreed, that the Dutch shall not, at any tyme hereafter, build any house or habitation within six miles of the said line, the inhabitants of Greenwich to remain (till further consideration thereof be had) under the government of the Dutch.

3. That the Dutch shall hould and enjoy all the lands in Hartford, that they are actually in possession off, knowne or sett out by certaine merkes and boundes, and all the remainder of the said lands, on both sides of Connecticut river, to be and remaine to the English there.

And it is agreed, that the aforesaid bounds and lymyts, both upon the island and maine, shall be observed and kept inviolable, both by the Englishe of the United Collonies and all the Dutch nation, without any encroachment or molestation, until a full determination be agreed upon in Europe, by mutual consent of the two states of England and Holland.

And in testimony of our joint consent to the several foregoing conditions, wee have hereunto sett our hands this 19th day of 7ber, 1650.

| | |
|---|---|
| Symon Bradstreete | Tho: Willet |
| Tho: Prence | Theo: Baxter. |

## III.

### COPY OF AN ADDRESS TO OLIVER CROMWELL IN 1654.

May it please your Highness,

It hath beene no smal comfort to us poor exiles, in these utmost ends of the earth (who sometimes felt and often feared the frownes of the mighty) to have had the experience of the good hand of God, in raisinge up such, whose endeavours have not beene wantinge to our welfare: amongst whom, we have good cause to give your highness the first place: who by a continued series of favours have obliged us, not only while you moved in a lower orbe, but since the Lord hath called your highness to supreame authority, whereat we rejoice and shal pray for the continuance of your happy government, that under your shadow not only ourselves, but all the churches may find rest and peace. The assurance of your highness's endeavours for that end wee have lately received by Major Sedgwick and Captain Leveritt, for, notwithstanding the urgent and important occasions wherewith your highness is pressed, yet your goodness hath compelled you to be mindful of us, and to give such royal demonstration of your grace and favour, far beyond what we dared to expect or desire, upon intelligence of our condition presented to your highness by some private friends, whose well meaninge to us, must excuse their

mistake; which hath made us confident, that our attendance to your pleasure, in furnishinge the said gentlemen with voluntiers, for your highness's service against the Dutch at the Manhatas, will be acceptable: with whom also, in complyance with our nation, ever since wee heard of the warr, wee have debarred ourselves of all commerce; and have beene exercised with serious and conscientious thoughts of our duty in this juncture of affaires; the result whereof was in May 1653, That it was most agreeable to the gospel of peace which we profess, and safest for these colonyes, at this season, to forbeare the use of the sword; and though some of the other colonyes seemed to be of another mind, yet there wanted the concurrence of such a number of the commissioners to act accordingly, without whose consent foregoinge (by the articles of our confederation) no warr may be undertaken. Wee have nothing to add, to what was then under consideration, to put us upon that undertaking, in reference to our own interest, which we ought to understand and should attend, equally with our friends not more concerned than our selves; wherein if wee should be mistaken, wee hope wee shall not be loosers with God or good men, by our tenderness in a case of such importance, and suspendinge our actings, till wee see cleare and satisfyinge grounds of our undertakings, so highly tendinge to the violation of our peace, the almost onely blessinge remaining to us, of all our outward comforts; the losse whereof,

with the necessary consequents, would add such weight to our other sufferings as might overwhelme us in sorrow, and in that respect, render us of all men most miserable; which wee are assured is so far from your gracious intentions, that wee have no doubt, but the liberty wee have taken, of the waies proposed by your highness, to take that which is in our understandinge, the most consistent with our peace and welfare; will be most acceptable to your highness, and indeed wee cannot but acknowledge it a gracious providence of God, and a high favor and gentleness in your highness towards us, that when the object of your desire was our good, the meanes to attaine that end should no way press us: for, with all readiness, wee haue consented the said gentlemen may raise 500 voluntiers, armed and furnished for your service, within our jurisdiction, which is a large proportion out of our small numbers, especially at this season of the year, wherein the pressinge occasions of harvest doe call for all our hands to attend that service, least the following winter punish us for our neglect: Yet wee willingly run this hazzard, that wee might, in some measure, manifest our devotion to your service, in what wee may. Sir, be pleased to beleeve us, that our harts and our affections to your highness are sincere, and that wee should account it our unhappiness, and ranke it amongst our greatest sufferings, to incur your highness's displeasure, though wee should never feele the effects thereof. If, there-

fore, our understandings have in any thing mislead us, we most humbly crave your pardon, and that your highness be pleased to retaine us in your good opinion and favour, and wee shall ever pray the Lord, your protector in all your dangers, that hath crowned you with honor after your long service, to lengthen your daies, that you may long continue Lord Protector of the 3 nations, and of the churches of Christ Jesus, In whom we are,

Sir,

Your Highness's

24th August, devoted servants,

1654.

The General Court of the Massatusetts.

## IV.

### COPY OF A LETTER FROM THE GOVERNMENT OF THE COLONY OF RHODE-ISLAND, CONCERNING THE QUAKERS.

Much honored gentlemen,

PLEASE you to understand, that there hath come to our view a letter subscribed by the honour'd gentlemen commissioners of the United Coloneys, the contents whereof are a request concerning certayne people caled Quakers, come among us lately, &c.

Our desires are, in all things possible, to pursue after and keepe fayre and loving correspondence and entercourse with all the colloneys, and with all our countreymen in New-England; and to that purpose we have endeavoured (and shall still endeavour) to answer the desires and requests from all parts of the countrey, coming unto us, in all just and equall returnes, to which end the coloney have made seasonable provision to preserve a just and equal entercourse between the coloneys and us, by giving justice to any that demand it among us, and by returning such as make escapes from you, or from the other coloneys, being such as fly from the hands of justice, for matters of crime done or committed amongst you, &c. And as concerning these Quakers (so caled) which are now among us, we have no law among us whereby

to punish any for only declaring by words, &c., their mindes and understandings concerning the things and ways of God, as to salvation and an eternal condition. And we, moreover, finde, that in those places where these people aforesaid, in this coloney, are most of all suffered to declare themselves freely, and are only opposed by arguments in discourse, there they least of all desire to come, and we are informed that they begin to loath this place, for that they are not opposed by the civil authority, but with all patience and meeknes are suffered to say over their pretended revelations and admonitions, nor are they like or able to gain many here to their way; and surely we find they delight to be persecuted by civil powers, and when they are soe, they are like to gaine more adherents by the conseyte of their patient sufferings, than by consent to their pernicious sayings. And yet we conceive, that their doctrines tend to very absolute cutting downe and overturning relations and civil government among men, if generally received. But as to the dammage that may in likelyhood accrue to the neighbour colloneys by theire being here entertained, we conceive it will not prove so dangerous (as else it might) in regard of the course taken by you to send them away out of the countrey, as they come among you. But, however, at present, we judge it requisitt (and doe intend) to commend the consideration of their extravagant outgoings unto the generall assembly of our coloney

in March next, where we hope there will be such order taken, as may, in all honest and contientious manner, prevent the bad effects of their doctrines and endeavours; and soe, in all courteous and loving respects, and with desire of all honest and fayre commerce with you, and the rest of our honoured and beloved countreymen, we rest

Yours in all loving respects to serve you,

From Providence, at the court of tryals, held for the coloney, October 13th, 1657.

BENEDICT ARNOLD, *Presidt.*
WILLIAM BAULSTON,
RANDALL HOWLDON,
ARTHUR FENNER,
WILLIAM FEILD.

To the much honoured, the Generall Court, sitting at Boston, for the Colloney of Massachussitts.

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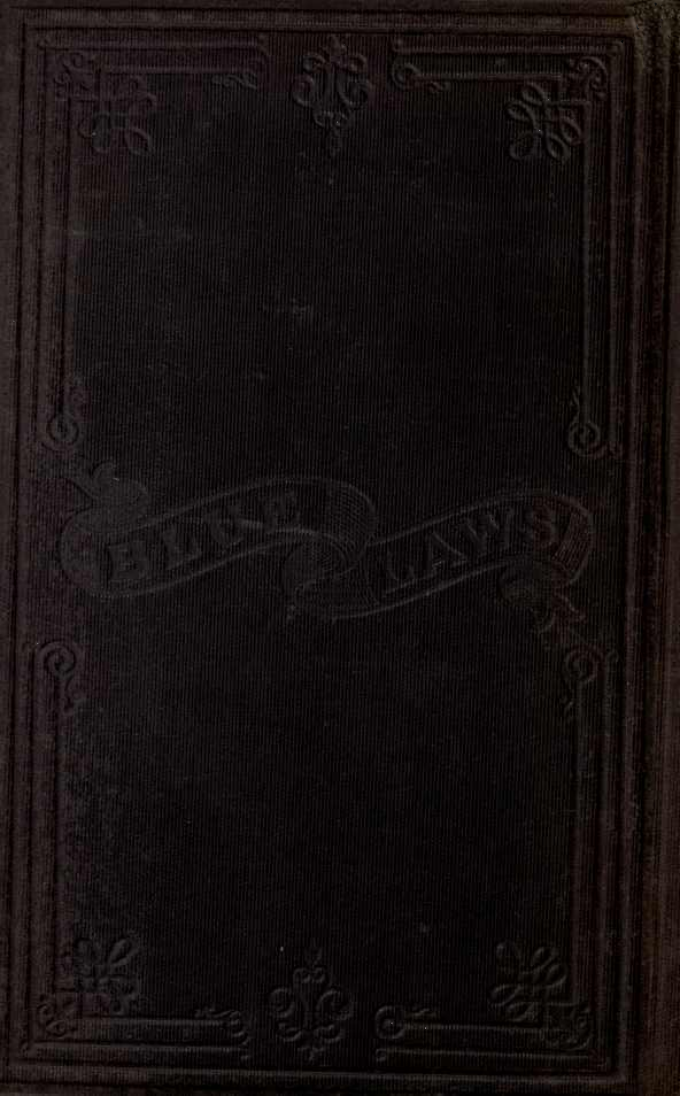
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